

IN THE MATTER OF THE
THE APPLICATION OF
TODD MORRILL
FOR SPECIAL HEARINGS AND
VARIANCE ON PROPERTY LOCATED
ON THE NORTHWEST SIDE OF W.
LIBERTY ROAD, 208' E OF C/L
HARRIS MILL (21300 W.
LIBERTY ROAD)
7TH ELECTION DISTRICT

* BEFORE THE
* COUNTY BOARD OF APPEALS
*
* OF
* BALTIMORE COUNTY
*
* CASE NOS. 95-263-SPH
* 95-264-SPH
* 95-265-V

* * * * *

O P I N I O N

This case comes on appeal of the Deputy Zoning Commissioner's March 30, 1995 decision in which the Petitions for Special Hearing in the instant case were granted and Petition for certain Variances was Dismissed as Moot. The matter was heard de novo in a single day of testimony; the Petitioner was represented by Howard L. Alderman, Jr., Levin & Gann; People's Counsel participated in the matter and appeared as Appellant represented by Carole S. Demilio, Deputy People's Counsel. It should be noted that there were no Protestants below.

Appearing for the Petitioner was Jeffrey C. Schultz of McKee and Associates, Inc., Civil Engineer who prepared the plat to accompany the Petitions for Zoning Variance and Special Hearing, and the Petitioner, Todd L. Morrill, and Jeffrey Long, Baltimore County Office of Planning. Appearing for People's Counsel was Paul Solomon, former Chief of the Environmental Planning Section of the Baltimore County Office of Planning and Zoning. Testimony was received in a single day and memoranda received from counsel in lieu of closing argument. This case was subsequently deliberated in open hearing.

MICROFILMED

The properties in question are the lot at 21300 W. Liberty Road ("Morrill lot") as well as Parcel A of the Gorsuch Hills subdivision located in the 3rd councilmanic district of Northeast Baltimore County. Parcel A was the subject of a prior Special Hearing, Case No. 93-289-SPH. The Morrill lot is located at the northern intersection of Harris Mill Road and W. Liberty Road, is roughly rectangular, .494 acres in area, is zoned RC-4, and is partially traversed by Harris Mill Road and W. Liberty Road. Parcel A abuts the Morrill lot at the northeast corner of the Morrill Lot, is roughly 1.47 acres in area, is split-zoned RC-2 and RC-4 and is part of the Gorsuch Hills subdivision. The Morrill lot was created as a lot of record in 1958, by the sale of the property from Albert and Elsie Sites to David and Eva Hill (Petitioner's Exhibit No. 7); in 1966, David and Eva Hill sold the Morrill lot to Hugh and Lillian Poe (Petitioner's Exhibit No. 6); in 1973, the property was conveyed to Robert Price, Sr. and Sally Price Michael; and on September 9, 1994, the property was conveyed to Mr. Todd L. Morrill, Petitioner in the instant case.

Parcel A is a parcel which was part of the Gorsuch Hills subdivision but which has no density units assigned to it for the purposes of residential development. Parcel A is also the subject of the Special Hearing Case No. 93-289-SPH before the Deputy Zoning Commissioner of Baltimore County wherein the parcel was stipulated to be transferred to the adjacent property owner for "non-density purposes". In the Petitions for Special Hearing, the Petitioner seeks approval to permit a well and septic system to be located on

the adjoining Parcel A to support the construction of a single family dwelling on the Morrill lot; further, Petitioner seeks the use of the Morrill lot for the construction of a single-family dwelling as a lot created prior to the adoption of the R.C. zones and to determine that the proposed building envelope met building setback requirements of the Baltimore County Zoning Regulations (BCZR) Section 1A03.4.B.2 or, in the alternative, if the Board determines that previously adopted setback requirements of the BCZR 1A03.B.4 (per Bill No. 98-75) are applicable, to consider Petition for Variance from the aforementioned building setbacks. The Petitioner seeks Special Hearing for the placement of well and septic on Parcel A as a result of failed percolation tests on the Morrill Lot to support a single-family dwelling. The zoning history of the Morrill Lot is somewhat difficult to ascertain. The official zoning map which was adopted by the County Council in 1971, was created using a photogrammetric map which was performed in April, 1961; that zoning map shows an "L" shaped building on the Morrill lot which was zoned B.L. along with neighboring properties about the intersection of Harris Mill Road and W. Liberty Road, with areas all around the B.L. zoned properties being zoned R.D.P. (Rural Deferred Planning). Exactly when the Morrill lot was zoned B.L. as opposed to any other residential zoning classification (R-6) is not clear, but evidence indicates that a general store was in operation on the Morrill lot dating back at least to the 1960s. BCZR Section 304, (1955) described use of undersized single family lots and the criteria to accomplish such use. At the time of the

promulgation of the BCZR (1955), the B.L. classification allowed residential uses with height and area requirements described in Section 232; Section 232.1, 2, and 3 refer one to the 1955 BCZR Section 302 and 303.1 to ascertain the area requirements. Section 302 indicates that, in the absence of a predominant surrounding residential zone, the R-6 area requirements shall govern. The instant lot was created subsequent to the promulgation of those zoning regulations and recorded in the Land Records of Baltimore County. The RC-2 and RC-4 zoning classifications were created under Bill No. 98-75 and amended by Bill Nos. 178-79, 199-90 and 113-92.

Mr. Jeffrey Schultz testified regarding the zoning and ownership history of the Morrill lot and Parcel A. He also testified concerning the proposed development, more thoroughly described on Petitioners Exhibit No. 1 that the Petitioner would provide access to an existing graveyard on Parcel A; that the Petitioner is willing to re-record the consolidation of the Morrill lot and Parcel A; that the placement of water, well and septic on Parcel A has no effect on the current and future possible uses on Parcel A as contemplated in the approval of the Gorsuch Hills subdivision; that the Morrill lot is larger than an adjoining property owner's (Anderson) lot; and that denial of Special Hearing and/or Variances would result in reduced density on the RC-4 Morrill lot presenting practical difficulty for the Petitioner. On cross-examination, Mr. Schultz indicated that he does not know if the Morrill lot, created in 1958, was approved by the Planning

Office at that time; that Petitioner plans approximately 1,500 square feet of impervious surface; that the septic reserve area, as proposed, will abut but not traverse the forest conservation area; that at the time of creation of the lot, the lot was not undersized per the BCZR then in existence; and, that it met the area requirements of the R-6 and B.L. zoning classifications in 1958. Traversing the property described by Mr. Schultz is Harris Mill Road and W. Liberty Road with no right-of-way to describe the aforementioned roads; Mr. Schultz indicated that a right-of-way was not required because the Morrill lot is an existing lot of record. Mr. Schultz also indicated that the Morrill lot remains unaltered since its creation in 1958.

Mr. Todd Morrill provided some historical information concerning the prior use of the Morrill lot as a general store and grist mill, going on to state that the foundation of the former grist mill still exists. On cross-examination, Mr. Morrill indicated that he intends to consolidate Parcel A and the Morrill lot.

Jeffrey Long, of the Baltimore County Office of Planning, indicated that Baltimore County would not oppose a lot line adjustment so long as the adjustment would not result in additional density, going on to state that, had the Petitioner owned Parcel A and the Morrill lot before the subdivision, that the parcel could have been adjusted with the support of the Office of Planning. Mr. Long also opined that the proposed single-family dwelling and placement of well and septic on Parcel A has no negative impact on

the potential agricultural use of Parcel A. Mr. Long's testimony concluded the Petitioner's case.

For People's Counsel, Mr. Paul Solomon testified to the history of R.C., R.D.P. and subsequently, R.C. zoning classifications. Mr. Solomon opined that the use of Parcel A for well and septic is a de facto use of density and that his position would be the same if the Petitioner were to combine Parcel A and the Morrill lot. He went on the state that Parcel A could be used for agricultural purposes, and that the placement of well and septic reduces the area usable for such agricultural endeavors.

The description of Parcel A in prior Case No. 93-289-SPH was stipulated as a non-density area to exist as open-space for additional back yard of the adjoining property owners, Norman and Robyn Anderson. The Andersons never completed the purchase of Parcel A. One of the questions for this Board is whether the placement of well and septic on Parcel A to support a single-family dwelling on the Morrill lot can be accomplished in view of the prior case. The Board finds that the proposed placement of well and septic on Parcel A is within the spirit of the earlier case in providing open space as part of the Gorsuch Hills subdivision. People's Counsel argues that the placement of the well and septic constitutes a use of the parcel which carries implied density. Mr. Jeffrey Schultz points out that the denial of placement of well and septic on Parcel A results in rendering the Morrill lot as unusable, thereby reducing density in the area. The Board finds Mr. Solomon's testimony rather unconvincing as to the agricultural

use of Parcel A, and finds that the proposed well and septic may be placed on Parcel A as such placement does not interfere with the open space provided as part of the Gorsuch Hills subdivision.

The next issue for the Board to decide is whether the proposed building envelope on Petitioner's Exhibit No. 1 meets the applicable setback requirements. At issue is which set of setback requirements are applicable to this case: BCZR promulgated in 1955 which calls for setbacks in accordance with the R-6 zoning classification; the setback requirements for RC-4 zoning classifications promulgated in 1975 which would result in necessitating the requested variance in the instant case; or the current RC-4 setback requirements found in the current edition of the BCZR. The Board finds that the current height and area regulations of the BCZR for RC-4 zones apply and that per BCZR 1A03.4.B.2, the proposed building envelope is in compliance. Two points must be explored at this point. The Board, sua sponte, questions whether the northernmost corner of the proposed building envelope is in fact at least 100 ft. from the acute angle formed by the RC-2 and RC-4 zone line aforesaid to the proposed septic area; the Board shall stipulate that the proposed building envelope shall be at least 100 ft. from that zone line, and that any error in drafting shall result in reducing the proposed building envelope to meet that requirement. Second, People's Counsel argues that the front building setback on W. Liberty Road does not comply with BCZR 1A03.4.B.2.a. or b.; the Board finds that W. Liberty Road is a public road, but the facts of this case indicate that neither

Harris Mill Road nor W. Liberty Road are described in a right-of-way nor an easement to traverse the Morrill lot. Neither W. Liberty Road nor Harris Mill Road is a private road; therefore, the Board finds that the Petitioner is left with little guidance but the previous setback requirements described in 1955 BCZR for R-6 development wherein building setback is required to be an average setback from nearby properties. The Board finds, because W. Liberty Road and Harris Mill Road are not described as a County right-of-way and because they are not private roads, that the proposed setbacks meet the aforementioned setback requirements and that the proposed building envelope setback is consistent with nearby properties, and therefore the zoning regulations in effect at the time the lot was created. Therefore, the Board finds that, pursuant to proper application for a building permit and compliance with engineering requirements of septic reserve and well, the determinations sought in this Special Hearing case will be granted, thereby negating the need for consideration of the Petitions for Variance in this matter. However, the Board is compelled to address the Variance issue in this matter.

In Cromwell v. Ward, 102 Md.App. 691 (1995), Court of Special Appeals, provides guidance for the Board in consideration of variances. First to be determined is whether the property is unique; having passed the first test, the Board is to determine whether strict compliance with the zoning regulations would result in practical difficulty or unreasonable hardship for the Petitioner. This Board finds that the instant Morrill property,

MICROFILMED

being an undersized lot for the RC-4 classification, is unique in several respects; first, the property is traversed by two public roads which are not described as a right-of-way thereby reducing the usable area to the detriment of the Petitioner; second, the Morrill lot was created in 1958 and was in compliance with then existing zoning regulations and usable for the purposes of development as a residence until the promulgation of the RC-4 zoning classification, only to be once again brought back into compliance by the revision of the RC-4 area regulations. The mere existence of this lot as an undersized lot in compliance with prior zoning regulations and subsequent revision of the regulations makes the disposition of this property unique when compared to other properties in Baltimore County. The second test being that the strict adherence of the zoning regulations would result in practical difficulty or unreasonable hardship is illustrated by the potential denial of the variance and subsequent inability of the petitioner to develop the land as proposed. The Board finds that such denial would constitute an unreasonable hardship; therefore, the Board would grant the Variance were it asked to do so.

O R D E R

IT IS THEREFORE this 20th day of May, 1996 by the County Board of Appeals of Baltimore County

ORDERED that the Petition for Special Hearing in Case No. 95-263-SPH to approve residential use of an existing lot created prior to the adoption of the R.C. zones for one single family dwelling be and is hereby GRANTED; and it is further


MICROFILMED

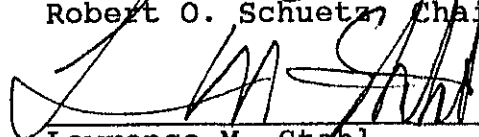
ORDERED that the building setback requirements of Section 1A03.4B.2 of the Baltimore County Zoning Regulations are applicable to the subject property; and that the Petition for Special Hearing in Case No. 95-264-SPH to permit a modification to the relief granted in prior Case No. 93-289-SPH to permit a well and septic system to be located as shown on Petitioner's Exhibit 1 be and is hereby GRANTED; and it is further

ORDERED that the Petition for Variances in Case No. 95-265-A be and is hereby DISMISSED AS MOOT.

Any petition for judicial review from this decision must be made in accordance with Rule 7-201 through Rule 7-210 of the Maryland Rules of Procedure.

COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY


Robert O. Schuetz, Chairman


Lawrence M. Stahl


Kristine K. Howanski

MICROFILMED



County Board of Appeals of Baltimore County

OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
(410) 887-3180

Peter Max Zimmerman
People's Counsel
for Baltimore County
Room 47, Old Courthouse
400 Washington Avenue
Towson, MD 21204

RE: Case Nos. 95-263-SPH,
95-264-SPH and 95-265-V
Todd Morrill - Petitioner

Dear Mr. Zimmerman:

Enclosed please find a copy of the final Opinion and Order issued this date by the County Board of Appeals of Baltimore County in the subject matter.

Any petition for judicial review from this decision must be made in accordance with Rule 7-201 through Rule 7-210 of the Maryland Rules and Procedure. If no such petition is filed within 30 days from the date of the enclosed Order, the subject file will be closed.

Very truly yours,

Charlotte E. Radcliffe
Charlotte E. Radcliffe
Legal Secretary

encl.

cc: Howard L. Alderman, Jr., Esquire
Mr. Todd Morrill
Mr. Geoffrey Schultz
McKee & Associates, Inc.
Pat Keller
Timothy M. Kotroco
W. Carl Richards, Jr. /PDM
Docket Clerk /PDM
Arnold Jablon, Director /PDM
Virginia W. Barnhart, County Attorney

MICROFILMED



IN RE: PETITIONS FOR SPECIAL HEARING * BEFORE THE
 AND VARIANCE - NW/S Liberty Rd., * DEPUTY ZONING COMMISSIONER
 340' N of c/l of Harris Mill Rd. * OF BALTIMORE COUNTY
 (21300 West Liberty Road)
 7th Election District * Case Nos. 95-263-SPH,
 3rd Councilmanic District * 95-264-SPH, and 95-265-A
 Todd Morrill *
 Petitioner *

* * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Deputy Zoning Commissioner as combined Petitions for Special Hearing and Variance for that property known as 21300 West Liberty Road and Parcel "A" adjacent thereto, located in the vicinity of Corsuch Mills in northern Baltimore County. The Petitions were filed by the owner of the property, Todd Morrill, through his attorney, Howard L. Alderman, Jr., Esquire. In Case No. 95-263-SPH, the Petitioner seeks approval of the residential use of an existing lot created prior to the adoption of the R.C zones for one single family dwelling and to determine that the building setback requirements of Section 1A03.4.B.2 of the Baltimore County Zoning Regulations (B.C.Z.R.) are applicable to the subject property, or in the alternative, should this Deputy Zoning Commissioner determine that the previously adopted setback requirements of Section 1A03.4.B.4, per Bill No. 98, 1975, are applicable, consideration of the Petition for Variance in Case No. 95-265-A. In Case No. 95-264-SPH, the Petitioner seeks a modification of the relief granted in prior Case No. 93-289-SPH to permit a well and septic system to be located on Parcel "A", which is a residentially zoned, non-density parcel adjoining 21300 West Liberty Road. Lastly, in the event alternative special hearing relief is granted in Case No. 95-263-SPH, the Petitioner seeks relief, pursuant to Case No. 95-265-A, from Section 1A03.4.B.4 of the B.C.Z.R. to permit a

ORDER RECEIVED FOR FILING

Date

By

3/30/95
 [Signature]

RECEIVED
 1995 MAR 31 PM 4:00

front building setback of 30 feet in lieu of the required 100 feet from the centerline of a street; to permit a left side yard setback of 50 feet in lieu of the 100 feet required from the centerline of a street; a right side yard setback of 25 feet in lieu of the 50 feet required from a lot line, and a rear yard setback of 25 feet in lieu of the 50 feet required from a lot line other than a street line, for the construction of one single family dwelling on an existing lot of record which was recorded prior to the adoption of the R.C. zones. The subject property and relief sought are more particularly described on the site plans submitted with each Petition filed and marked into evidence respectively as Petitioner's Exhibits 1.

Appearing at the hearing held on behalf of these Petitions were Todd Morrill, property owner, Howard L. Alderman, Jr., Esquire, attorney for the Petitioner, and Geoffrey Schultz, Professional Engineer with McKee and Associates, Inc., who prepared the site plans submitted with these Petitions. There were no Protestants present.

The properties which are the subject of these requests include a 0.494 acre parcel of land, known as 21300 West Liberty Road, and an adjoining parcel comprised of 1.47 acres, known as Parcel "A" of the subdivision of Corsuch Hills. Parcel "A" is split zoned R.C. 2 and R.C. 4, while the property at 21300 West Liberty Road is zoned R.C. 4. The Petitioner is desirous of developing the property at 21300 West Liberty Road with a single family dwelling and locating the well and septic reserve area for this dwelling on the adjoining Parcel "A". The property at 21300 West Liberty Road failed the percolation test required for a well and septic system. It should be noted that Parcel "A" was the subject of prior Case

3/30/95
JBP
MICROFILMED

No. 93-289-SPH in which this parcel was approved for non-density purposes by this Deputy Zoning Commissioner on May 25, 1993.

At the onset of the hearing on the instant matter, Counsel for the Petitioner raised a Motion to Dismiss the variance requested pursuant to Case No. 95-265-A, inasmuch as the dwelling proposed to be constructed at 21300 West Liberty Road meets all of the setback requirements imposed by its R.C. 4 zoning classification. Therefore, Mr. Alderman argued that the requested variance should be dismissed accordingly.

As to the special hearing relief sought by the Petitioner, it was clear from the proffered testimony presented by Mr. Alderman that the property at 21300 West Liberty Road has existed since prior to the establishment of the R.C. 4 zone and that the Petitioner has the right to construct a dwelling thereon. Furthermore, as to the alternative relief sought in Case 95-263-SPH, inasmuch as the lot on which the Petitioner wishes to construct his home would not perc, the Petitioner is in the process of acquiring the adjoining Parcel "A" from the neighboring development of Gorsuch Hills to locate the well and septic reserve area for the proposed dwelling. As noted above, Parcel "A" consists of 1.47 acres and provides more than enough area to locate a well and septic reserve area thereon. Mr. Morrill testified that once the special hearing relief is granted, he intends to finalize the purchase of Parcel "A" and merge same with the 0.494 acre parcel at 21300 West Liberty Road to create one lot of nearly 2 acres. As noted above, Parcel "A" was the subject of prior Case No. 93-289-SPH in which this Deputy Zoning Commissioner allowed this land to exist as a non-density parcel. In the opinion of this Deputy Zoning Commissioner, the proposed use of Parcel "A" for a well and septic reserve area to serve the dwelling at 21300 West Liberty Road will not interfere

ORDER RECEIVED FOR FILING

Date

By

MICROFILMED

with the openness of Parcel "A" which was the intention of creating a non-density parcel in prior Case No. 93-289-SPH. Therefore, the special hearing relief requested pursuant to Case No. 95-264-SPH shall be granted and Mr. Morrill shall be permitted to use this land for a well and septic reserve area.

Furthermore, I find that the proposed dwelling meets all setback requirements imposed by Section 1A03.4.B.2 of the B.C.Z.R., and as such, the Petition for Variance shall be dismissed as moot.

After due consideration of the testimony and evidence presented, it is clear that practical difficulty or unreasonable hardship would result if the relief requested in the special hearing were not granted. It has been established that the requirements from which the Petitioner seeks relief would unduly restrict the use of the land due to the special conditions unique to this particular parcel. In addition, the relief requested will not be detrimental to the public health, safety, and general welfare.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the special hearing relief should be granted and the variances dismissed as moot.

THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County this 30th day of March, 1995 that the Petition for Special Hearing in Case No. 95-263-SPH to approve the residential use of an existing lot created prior to the adoption of the R.C zones for one single family dwelling, in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED; and,

IT IS FURTHER ORDERED that the building setback requirements of Section 1A03.4.B.2 of the Baltimore County Zoning Regulations (B.C.Z.R.)

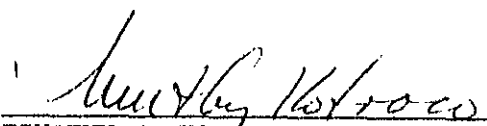
are applicable to the subject property, and as such, the Petition for Special Hearing in Case No. 95-263-SPH, be and is hereby GRANTED; and,

IT IS FURTHER ORDERED that the Petition for Special Hearing in Case No. 95-264-SPH to permit a modification to the relief granted in prior Case No. 93-289-SPH to permit a well and septic system to be located on Parcel "A", an adjoining residentially zoned, non-density parcel, in the location shown on Petitioner's Exhibit 1, be and is hereby GRANTED, subject to the following restriction:

1) The Petitioners may apply for their building permit and be granted same upon receipt of this Order; however, Petitioners are hereby made aware that proceeding at this time is at their own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the relief granted herein shall be rescinded.

IT IS FURTHER ORDERED that the Petition for Variance in Case No. 95-265-A seeking relief from Section 1A03.4.B.4 of the B.C.Z.R. to permit a front building setback of 30 feet in lieu of the required 100 feet from the centerline of a street; to permit a left side yard setback of 50 feet in lieu of the 100 feet required from the centerline of a street; a right side yard setback of 25 feet in lieu of the 50 feet required from a lot line, and a rear yard setback of 25 feet in lieu of the 50 feet required from a lot line other than a street line, for the construction of one single family dwelling on an existing lot of record which was recorded prior to the adoption of the R.C. zones, be and is hereby DISMISSED AS MOOT.

TMK:hjs


TIMOTHY M. KOTROCO
Deputy Zoning Commissioner
for Baltimore County

ORDER RECEIVED FOR FILING

Date

By



Petition for Variance

95-265-A

#21300 West Liberty Rd E. 27.

to the Zoning Commissioner of Baltimore County

RC-4

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Variance from Section 1A03.4.B.4 (Bill No. 98, 1975, No. 178, 1979)

of the Zoning Regulations of Baltimore County, to the Zoning Law of Baltimore County; for the following reasons: (indicate hardship or practical difficulty)

See Attached

Property is to be posted and advertised as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of above Variance advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law For Baltimore County.

I/We do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition.

Contract Purchaser/Lessee:

(Type or Print Name)

Signature

Address

City and State

Legal Owner(s):

Todd Morrill

(Type or Print Name)

Signature

(Type or Print Name)

Signature

Attorney for Petitioner:

Howard L. Alderman, Jr.

(Type or Print Name)

Signature

Levin & Gann

305 West Chesapeake Avenue

Address

Towson, Maryland 21204

City and State

Attorney's Telephone No.: 321-0600

1248 Lower Glencoe Road 296-8903

Address

Phone No.

Sparks, Maryland 21152

City and State

Name, address and phone number of legal owner, contract purchaser or representative to be contacted

McKee & Associates, Inc. 527-1555

Name

5 Shawan Road, Hunt Valley, MD 21030

Address

Phone No.

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING -1/2HR. +1HR.

AVAILABLE FOR HEARING

MON./TUES./WED. - NEXT TWO MONTHS

ALL OTHER

REVIEWED BY: R.T. DATE 1-20-95

ITEM # 255

MICROFILMED

ORDER RECEIVED FOR FILING

Date 1/3/95

BY

95-265-A

Variance Relief:

A variance from BCZR § 1A03.4.B.4 (per Bill No. 98, 1975), to permit a front building setback of 30 feet in lieu of the 100 feet required from the centerline of a street; to permit a left side yard setback of 50 feet in lieu of the 100 feet required from the centerline of a street; a right side yard setback of 25 feet in lieu of the 50 feet required from a lot line, and a rear yard setback of 25 feet in lieu of the 50 feet required from a lot line other than a street line, for the construction of one single family dwelling on an existing lot of record which was recorded prior to the adoption of the RC zoning requirements.

Justification:

1. The subject property is a lot of record, created prior to the adoption of the RC zones;
2. The shape and configuration of the lot were not in the control of the Petitioner and such conditions are unique to this lot when compared to other properties in the immediate area;
3. The unusual circumstances applicable to this lot are unique when compared to other lots in the immediate area; and
4. For such further reasons as will be presented at the time of the public hearing held on this Petition.

ITEM# 255

MICROFILMED

MCKEE & ASSOCIATES, INC.

Engineering - Surveying - Real Estate Development

SHAWAN PLACE, 5 SHAWAN ROAD

HUNT VALLEY, MARYLAND 21030

Telephone: (410) 527-1555

Facsimile: (410) 527-1563

January 17, 1995

ZONING DESCRIPTION

21300 WEST LIBERTY ROAD

SEVENTH ELECTION DISTRICT

BALTIMORE COUNTY, MARYLAND

Beginning at a point in the center of West Liberty Road at a distance of 208 feet more or less East of the intersection of Harris Mill Road; thence along the five following bearings and distances: North $56\frac{1}{2}^{\circ}$ West 94 feet, South 37° West 100.5 feet, South 51° West 115 feet more or less, South 52° East 110 feet, and North 35° East 208 feet more or less to the place of beginning.

Containing 0.494 of an acre more or less.

Also known as 21300 West Liberty Road in the Seventh Election District of Baltimore County.



1/23/95

ITEM# 255

MICROFILMED

NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing on the property identified herein in Room 108 of the County Office Building, 111 W. Chesapeake Avenue in Towson, Maryland 21204 or Room 118, Old Courthouse, 400 Washington Avenue, Towson, Maryland 21204 as follows:

Case: #95-265-A

(Item 255)

21300 W. Liberty Road,
208' E of c/l Harris Mill
Road

NW/S W. Liberty Road,
208' E of c/l Harris Mill
Road

7th Election District
3rd Councilmanic

Legal Owner(s):

Todd Morrill

Hearing: Tuesday,

February 28, 1995 at
12:00 a.m. in Rm. 118, Old

Courthouse.

Variance to permit a front building setback of 30 feet in lieu of the 100 feet required from the centerline of a street; to permit a left side yard setback of 50 feet in lieu of the required from the centerline of a street; a right side setback of 25 feet in lieu of the 50 feet required from a lot line; and a rear yard setback of 25 feet in lieu of the 50 feet required from a lot line other than a street line, for the construction of one single family dwelling on an existing lot of record which was recorded prior to the adoption of the R.C. zoning requirements.

LAWRENCE E. SCHMIDT
Zoning Commissioner for
Baltimore County

NOTES: (1) Hearings are Handi-
capped Accessible, for special ac-
commodations Please Call
887-3353.

(2) For information concern-
ing the File and/or Hearing, Please
Call 887-3391.
2/134 February 9.

CERTIFICATE OF PUBLICATION

TOWSON, MD.,

2/10

, 1995

THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper published in Towson, Baltimore County, Md., once in each of 1 successive weeks, the first publication appearing on 2/9, 1995.

THE JEFFERSONIAN,

A. Henickson

LEGAL AD. - TOWSON

MICROFILMED

CERTIFICATE OF POSTING
ZONING DEPARTMENT OF BALTIMORE COUNTY 95-265-17
Towson, Maryland

District 7th Date of Posting 7/10/95

Posted for: Vorlaxco

Petitioner: Todd Morrill

Location of property: 21300 W. Liberty Rd

Location of Signs: Facing roadway, on property being zoned

Remarks: _____

Posted by [Signature] Date of return: 7/17/95
Signature

Number of Signs: 1

MICROFILMED





Baltimore County
Zoning Administration &
Development Management
111 West Chesapeake Avenue
Towson, Maryland 21204

receipt

95-265-A

Account: R-001-6150

Number

255

R.T.

Date

1-20-25

TODD MORRILL

1248 LOWER GLENCOE

SPARKS, MD. 21152

R/O — VARIANCE — \$ 50⁰⁰

R/O — SIGN — \$ 35⁰⁰

TOTAL — \$ 85⁰⁰

* MICROFILMED

02/20/2025 09:47:00

\$85.00

RD 0003:43:0001-201-95

Please Make Checks Payable To: Baltimore County

Cashier Validation

TO: PUTUXENT PUBLISHING COMPANY
February 9, 1995 Issue - Jeffersonian

Please forward billing to:

Todd Morrill
1248 Lower Glencoe Road
Sparks, MD 21152
296-8903

NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing on the property identified herein in
Room 106 of the County Office Building, 111 W. Chesapeake Avenue in Towson, Maryland 21204
or
Room 118, Old Courthouse, 400 Washington Avenue, Towson, Maryland 21204 as follows:

CASE NUMBER: 95-265-A (Item 255)

21300 W. Liberty Road, 208' E of c/l Harris Mill Road

NW/S W. Liberty Road, 208' E of c/l Harris Mill Road

7th Election District - 3rd Councilmanic

Legal Owner(s): Todd Morrill

HEARING: TUESDAY, FEBRUARY 28, 1995 at 10:00 a.m. in Room 118, Old Courthouse.

Variance to permit a front building setback of 30 feet in lieu of the 100 feet required from the centerline of a street; to permit a left side yaard setback of 50 feet in lieu of the 100 feet required from the centerline of a street; a right side setback of 25 feet in lieu of the 50 feet required from a lot line, and a rear yard setback of 25 feet in lieu of the 50 feet required from a lot line other than a street line, for the construction of one single family dwelling on an existing lot of record which was recorded prior to the adoption of the R.C. zoning requirements.

LAWRENCE E. SCHMIDT
ZONING COMMISSIONER FOR BALTIMORE COUNTY

NOTES: (1) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL 887-3353.
(2) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, PLEASE CALL 887-3391.

MICROFILMED

Baltimore County Government
Office of Zoning Administration
and Development Management



111 West Chesapeake Avenue
Towson, MD 21204

(410) 887-3353

FEBRUARY 2, 1995

NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing on the property identified herein in
Room 106 of the County Office Building, 111 W. Chesapeake Avenue in Towson, Maryland 21204
or
Room 118, Old Courthouse, 400 Washington Avenue, Towson, Maryland 21204 as follows:

CASE NUMBER: 95-265-A (Item 255)

21300 W. Liberty Road, 208' E of c/l Harris Mill Road

NW/S W. Liberty Road, 208' E of c/l Harris Mill Road

7th Election District - 3rd Councilmanic

Legal Owner(s): Todd Morrill

HEARING: TUESDAY, FEBRUARY 28, 1995 at 10:00 a.m. in Room 118, Old Courthouse.

Variance to permit a front building setback of 30 feet in lieu of the 100 feet required from the centerline of a street; to permit a left side yard setback of 50 feet in lieu of the 100 feet required from the centerline of a street; a right side setback of 25 feet in lieu of the 50 feet required from a lot line, and a rear yard setback of 25 feet in lieu of the 50 feet required from a lot line other than a street line, for the construction of one single family dwelling on an existing lot of record which was recorded prior to the adoption of the R.C. zoning requirements.

A handwritten signature in cursive script, reading "Arnold Jablon".

Arnold Jablon
Director

cc: Todd Morrill
Howard L. Alderman, Jr., Esq.
McKee & Associates, Inc.

NOTES: (1) ZONING SIGN & POST MUST BE RETURNED TO RM. 104, 111 W. CHESAPEAKE AVENUE ON THE HEARING DATE.
(2) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL 887-3353.
(3) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THIS OFFICE AT 887-3391.

MICROFILMED





County Board of Appeals of Baltimore County

OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
(410) 887-3180

Hearing Room - Room 48
Old Courthouse, 400 Washington Avenue

July 18, 1995

NOTICE OF ASSIGNMENT

NO POSTPONEMENTS WILL BE GRANTED WITHOUT GOOD AND SUFFICIENT REASONS. REQUESTS FOR POSTPONEMENTS MUST BE IN WRITING AND IN STRICT COMPLIANCE WITH RULE 2(b). NO POSTPONEMENTS WILL BE GRANTED WITHIN FIFTEEN (15) DAYS OF SCHEDULED HEARING DATE UNLESS IN FULL COMPLIANCE WITH RULE 2(c), COUNTY COUNCIL BILL NO. 59-79.

TODD MORRILL -Petitioner
NW/s of W. Liberty Road, 208' E of c/l Harris
Mill Road (21300 W. Liberty Road)
7th Election District
3rd Councilmanic District

95-263-SPH SPH -Approval of residential use of existing
lot created prior to R.C. zones; determine
building setbacks

95-264-SPH SPH -Modification of relief granted in 93-289-
SPH /well & septic

95-265-V VAR -Building, side & rear yard setbacks

3/30/95 -D.Z.C.'s Order in which Petitions for
Special Hearing were GRANTED and Petition for
Variance DISMISSED as moot.

ASSIGNED FOR: WEDNESDAY, OCTOBER 25, 1995 at 10:00 a.m.

cc: People's Counsel for Baltimore County Appellant

Howard L. Alderman, Jr., Esquire Counsel for Petitioner
Mr. Todd Morrill Petitioner

Mr. Geoffrey Schultz
McKee & Associates, Inc.

Pat Keller
Lawrence E. Schmidt
Timothy M. Kotroco
W. Carl Richards, Jr. /PDM
Docket Clerk /PDM
Arnold Jablon, Director /PDM

MICROFILMED

Kathleen C. Weidenhammer
Administrative Assistant

PLEASE RETURN SIGN AND POST TO ROOM 49 ON DAY OF HEARING.



Baltimore County Government
Office of Zoning Administration
and Development Management



111 West Chesapeake Avenue
Towson, MD 21204

(410) 887-3353

February 23, 1995

Howard L. Alderman, Jr., Esquire
Levin and Gann
305 West Chesapeake Avenue
Towson, Maryland 21204

RE: Item No.: 255
Case No.: 95-265-A
Petitioner: Todd Morrill

Dear Mr. Alderman:

The Zoning Advisory Committee (ZAC), which consists of representatives from Baltimore County approving agencies, has reviewed the plans submitted with the above referenced petition. Said petition was accepted for processing by, the Office of Zoning Administration and Development Management (ZADM), Development Control Section on January 20, 1995.

Any comments submitted thus far from the members of ZAC that offer or request information on your petition are attached. These comments are not intended to indicate the appropriateness of the zoning action requested, but to assure that all parties; i.e., zoning commissioner, attorney, petitioner, etc. are made aware of plans or problems with regard to the proposed improvements that may have a bearing on this case. Only those comments that are informative will be forwarded to you; those that are not informative will be placed in the permanent case file.

If you need further information or have any questions regarding these comments, please do not hesitate to contact the commenting agency or Joyce Watson in the zoning office (887-3391).

Sincerely,

A handwritten signature in dark ink, reading "W. Carl Richards, Jr." in a cursive style.

W. Carl Richards, Jr.
Zoning Supervisor

WCR/jw
Attachment(s)

MICROFILMED



BALTIMORE COUNTY, MARYLAND
I N T E R O F F I C E C O R R E S P O N D E N C E

TO: Arnold Jablon, Director DATE: Feb. 13, 1995
Zoning Administration and Development Management

FROM: *RWB* Robert W. Bowling, P.E., Chief
Developers Engineering Section

RE: Zoning Advisory Committee Meeting
for February 13, 1995
Item No. 255

The Developers Engineering Section has reviewed the subject zoning item. West Liberty Road is an existing road, which shall ultimately be improved as a 40-foot street cross-section on a 60-foot right-of-way.

Harris Mill Road is an existing road, which shall ultimately be improved as a 40-foot street cross-section on a 60-foot right-of-way.

In accordance with Bill No. 56-82, filling within a flood plain is prohibited.

Per Topo Sheet NE 38B, dated April 1961, there is an existing building on this lot. Please clarify.

RWB:sw

MICROFILMED

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon, Director
Zoning Administration &
Development Management

FROM: Pat Keller, Director
Office of Planning and Zoning

DATE: February 13, 1995

SUBJECT: 21300 West Liberty Rd.

INFORMATION:

Item Number: 253, 254, and 255

Petitioner: Todd Morrill

Property Size:

Zoning: RC-4

Requested Action: Special Hearing & Variance

Hearing Date: / /

SUMMARY OF RECOMMENDATIONS:

Staff has met with the applicant's representatives, Mr. Schultz and Mr. Alderman, to discuss the requested relief. While at first the request appears unusually complex, the applicant essentially desires to develop an undersized, previously recorded lot and to locate private utilities on adjacent land, known as Tract "A".

Should there not be a need for a variance and the provisions of Section 304 are met, staff recommends approval of the request since both the subject lot and Tract "A" are owned by the petitioner. It is recommended, however, that a restriction be placed in the order to insure that access to the graveyard is provided.

Prepared by: Jeffrey W. Long

Division Chief: Garryl Kern

PK/JL



**Maryland Department of Transportation
State Highway Administration**

O James Lighthizer
Secretary

Hal Kassoff
Administrator

2-7-95

Ms. Joyce Watson
Zoning Administration and
Development Management
County Office Building
Room 109
111 W. Chesapeake Avenue
Towson, Maryland 21204

Re: Baltimore County
Item No.: \$ 255 (RT)

Dear Ms. Watson:

This office has reviewed the referenced item and we have no objection to approval as it does not access a State roadway and is not effected by any State Highway Administration project.

Please contact Bob Small at 410-333-1350 if you have any questions.

Thank you for the opportunity to review this item.

Very truly yours,

Ronald Burns, Chief
Engineering Access Permits
Division

BS/

My telephone number is _____

Maryland Relay Service for Impaired Hearing or Speech
1-800-735-2258 Statewide Toll Free

MICROFILMED

Mailing Address: P.O. Box 717 • Baltimore, MD 21203-0717
Street Address: 707 North Calvert Street • Baltimore, Maryland 21202

Baltimore County Government
Fire Department



700 East Joppa Road Suite 901
Towson, MD 21286-5500

(410) 887-4500

DATE: 02/07/95

Arnold Jablon
Director
Zoning Administration and
Development Management
Baltimore County Office Building
Towson, MD 21204
MAIL STOP-1105

RE: Property Owner: SEE BELOW

ACTION: DISTRIBUTION MEETING OF FEB. 6, 1995.

Item No.: SEE BELOW

Zoning Agenda:

Gentlemen:

Pursuant to your request, the referenced property has been surveyed by this Bureau and the comments below are applicable and required to be corrected or incorporated into the final plans for the property.

B. The Fire Marshal's Office has no comments at this time,
IN REFERENCE TO THE FOLLOWING ITEM NUMBERS: 246, 252, 253, 254, 255,
256, 257, 258, 259, 260, 261 AND 263.

RECEIVED

FEB 8 1995

ZADM

REVIEWER: LT. ROBERT P. SAUERWALD
Fire Marshal Office, PHONE 887-4881, MS-1102F

cc: File

MICROFILMED

BALTIMORE COUNTY, MARYLAND
DEPARTMENT OF ENVIRONMENTAL PROTECTION AND RESOURCE MANAGEMENT
INTER-OFFICE CORRESPONDENCE

TO: Mr. Arnold Jablon, Director February 23, 1995
Zoning Administration and
Development Management

FROM: J. Lawrence Pilson JLP/MS
Development Coordinator, DEPRM

SUBJECT: Zoning Item #253, 254, 255 - Gorsuch Hills Par. A
21300 West Liberty Road
Zoning Advisory Committee Meeting of February 6, 1995

Agricultural Preservation Program

This request has been reviewed for prime and productive and the proposal would be directly detrimental to agricultural resources in the area.

Ground Water Management

Revised site plans are required and a well must be drilled which meets the minimum yield of one gallon per minute prior to approval of a building permit.

JLP:sp

GORSUCH/DEPRM/TXTSBP

RECEIVED

FEB 24 1995

ZADM

MICROFILMED

INTER-OFFICE CORRESPONDENCE
DEPARTMENT OF ENVIRONMENTAL PROTECTION
AND RESOURCE MANAGEMENT

TO: Zoning Commissioner

DATE: February 28, 1995

FROM: Wally Lippincott, Jr., Agricultural WSL
Preservation

Re: Zoning Item # 253, 254, 255 - Gorsuch Hills Par. A.
21300 West Liberty Road

I wish to amend the comment that I made regarding this request and provide a brief explanation. I apologize for the lateness of this change and hope that you will consider this comment.

The original comment erroneously said that this proposal would have a "direct" detrimental impact on the agricultural resources of the area. This is incorrect the comment should read, " the proposed request may have an indirect detrimental impact on the agricultural resources of this area."

The point is a concern for the use of nondensity parcels zoned RC 2 to be used for providing septic and well in order to support additional development in a RC 2 or RC 4 zone. There is no direct negative impact on agricultural resources in this case, however, as the existing lot and the proposed additional ground is too small to support agricultural activities. The concern is for supporting additional density and the indirect impact of additional development in the resource sensitive RC 2 and RC 4 zoned areas. These areas were zoned for the protection of agricultural and watershed resources, respectively.

cc. Development Review Section

MICROFILMED

10/13/94
To: MSK
10/13/94 ucr
at cashier

MCKEE & ASSOCIATES, INC.

Engineering - Surveying - Real Estate Development

SHAWAN PLACE, 5 SHAWAN ROAD

HUNT VALLEY, MARYLAND 21030

Telephone: (410) 527-1555

Facsimile: (410) 527-1563

October 11, 1994

Mr. Arnold Jablon, Director
Office of Zoning Administration
and Development Management
Baltimore County Courts Office
401 Bosley Avenue
Towson, Maryland 21204

Re: 0.5 Acres; Located North Side of
West Liberty and Harris Mill Roads
D-7; TA #07-16-60055

Dear Mr. Jablon:

RECEIVED
OCT 13 1994
ZADM

We are writing to request an opinion from your office regarding the above listed property. Currently, we are representing the owner of the property who wishes to develop the lot for a single family dwelling. The property is constricted by spatial setback requirements from existing septic systems, property lines, and floodplains to the proposed dwelling, well, and septic areas.

Our client has contacted the adjacent land owner to the north and has made arrangements to purchase "Parcel A" of the Gorsuch Hills subdivision to utilize it for placement of the well to support a dwelling on his lot.

The Gorsuch Hills subdivision was previously the subject of Special Hearing Case #93-289-SPH which designated "Parcel A" as a non-density parcel. We therefore would request an opinion from your office regarding the utilization of "Parcel A" to support a well site for a dwelling on our client's property, and any implications the Zoning Hearing would have on that use.

We also are requesting an opinion on property line setback requirements for the dwelling on this lot. The lot was previously improved by a general store and a mill, of which one's foundation remains along the property lines on West Liberty Road and the property of Norman and Robyn Anderson. Current setback regulations, if enforced, would render the site unbuildable without a variance. The property has been held intact since 1958 and may possibly be subject to previous property line setbacks.

MICROFILMED

ITEM # 253, 254 & 255

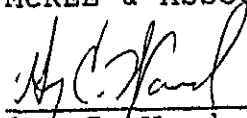
Letter to Mr. Arnold Jablon
Re: 0.5 Acres; Located North Side of
West Liberty and Harris Mill Roads
D-7; TA #07-16-60055
October 11, 1994
Page Two

We have enclosed the following for your review, a current tax map, an approved Minor Subdivision Plat of Gorsuch Hills, a copy of the Special hearing Order for Case #93-289-SPH, topography showing the existing conditions found on-site, the original deed dated 1958 which created the lot, and the required \$40.00 fee. We have also enclosed a copy of an article from a February, 1953 Baltimore Sun Magazine documenting the previous structures existence.

We appreciate your consideration in matter and look forward to hearing from you in the near future.

Very truly yours,

McKEE & ASSOCIATES, INC.



Guy C. Ward, R.S.

GCW:ajw
Enclosures

Speed
Letter

In the interest of speed and economy, we are replying to your letter with marginal notes. If you need more information, do not hesitate to call or write. Thank you for your interest.



October 18, 1994

•Dear Mr. Ward:

Please be advised that your proposal would require a special hearing to amend zoning case #93-289-SPH since the function of "Parcel A" will be different from what the hearing granted. Secondly, a variance will be required since the proposed building is being established from commercial to residential use with nonconforming setbacks.



Mitchell J. Kellman
Planner II

MJK:scj

MICROFILMED

ITEM# 253, 257 & 255

RE: PETITION FOR VARIANCE	*	BEFORE THE
21300 W. Liberty Road, NW/S W. Liberty Rd,	*	ZONING COMMISSIONER
208' E of c/l Harris Mill Road, 7th	*	OF BALTIMORE COUNTY
Election Dist., 3rd Councilmanic	*	CASE NO. 95-265-A
Todd Morrill		
Petitioner		
* * * * *		

ENTRY OF APPEARANCE

Please enter the appearance of the People's Counsel in the above-captioned matter. Notice should be sent of any hearing dates or other proceedings in this matter and of the passage of any preliminary or final Order.

Peter Max Zimmerman
PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

Carole S. Demilio
CAROLE S. DEMILIO
Deputy People's Counsel
Room 47, Courthouse
400 Washington Avenue
Towson, MD 21204
(410) 887-2188

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 14th day of February, 1995, a copy of the foregoing Entry of Appearance was mailed to Howard L. Alderman, Jr., Esquire, Levin & Gann, 305 W. Chesapeake Avenue, Towson, MD 21204, attorney for Petitioner.

Peter Max Zimmerman
PETER MAX ZIMMERMAN

MICROFILMED



Baltimore County, Maryland

OFFICE OF PEOPLE'S COUNSEL

Room 47, Old CourtHouse
400 Washington Ave.
Towson, MD 21204

(410) 887-2188

PETER MAX ZIMMERMAN
People's Counsel

CAROLE S. DEMILIO
Deputy People's Counsel

April 27, 1995

Arnold Jablon, Director
Zoning Administration and Development
Management Office
111 W. Chesapeake Avenue
Towson, MD 21204

RECEIVED

APR 27 1995

ZADM

Re: PETITIONS FOR SPECIAL HEARING
AND ZONING VARIANCE
21300 W. Liberty Road - NW/S W. Liberty
Road, 208' E of c/l Harris Mill Road,
7th Election Dist., 3rd Councilmanic;
AND
PETITION FOR SPECIAL HEARING
Parcel "A" Gorsuch Hills, 108' W of c/l
W. Liberty Road, 340' N of c/l Harris
Mill Road, 7th Elec. Dist., 3rd Council.
TODD MORRILL, Petitioner
Case Nos. 95-263-SPH, 95-264-SPH and
95-265-A

Dear Mr. Jablon:

Please enter an appeal of PEOPLE'S COUNSEL FOR BALTIMORE COUNTY to the County Board of Appeals from the order dated March 30, 1995 of the Baltimore County Deputy Zoning Commissioner in the above-entitled cases.

In this connection, please forward to this office copies of any papers pertinent to the appeal as necessary and appropriate.

Very truly yours,

Peter Max Zimmerman
People's Counsel for Baltimore County

Carole S. Demilio
Deputy People's Counsel

PMZ/CSD/caf

cc: Howard L. Alderman, Jr., Esquire

MICROFILMED

Baltimore County Government
Office of Zoning Administration
and Development Management



637.11 11:11:22

95 MAY -2 11:22

111 West Chesapeake Avenue
Towson, MD 21204

(410) 887-3353

May 1, 1995

Howard L. Alderman, Jr., Esquire
Levin & Gann
305 W. Chesapeake Avenue
Towson, MD 21204

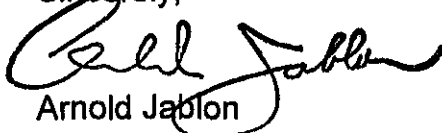
RE: Petitions for Special Hearing and
Variance
NW/S W. Liberty Road, 208 ft.
E of c/l Harris Mill Road
21300 W. Liberty Road
7th Election District
3rd Councilmanic District
Todd Morrill-Petitioner
Case Nos. 95-263-SPH,
95-264-SPH, and 95-265-A

Dear Mr. Alderman:

Please be advised that appeals of the above-referenced cases were filed in this office on April 27, 1995 by Peter Max Zimmerman, People's Counsel for Baltimore County. All material relative to the cases have been forwarded to the Board of Appeals.

If you have any questions concerning this matter, please do not hesitate to contact Julie A. Winiarski at 887-3353.

Sincerely,


Arnold Jablon

AJ:jaw

cc: Mr. Todd Morrill
Mr. Geoffrey Schultz

RECEIVED



APPEAL

Petitions for Variance
NW/S W. Liberty Road, 208 Ft. E of c/l Harris Mill Road
21300 W. Liberty Road
7th Election District and 3rd Councilmanic District
Todd Morrill-Petitioner
Case Nos. 95-265-A

Petition for Variance

Description of Property

Certificate of Posting

Certificate of Publication

Entry of Appearance of People's Counsel

Zoning Plans Advisory Committee Comments

Letter to Arnold Jablon from Guy W. Ward dated October 11, 1994

Petitioner's Exhibit: 1 - Plat to Accompany Zoning Variance and Special Hearing

Deputy Zoning Commissioner's Order dated March 30, 1995 (Granted)

cc: Howard L. Alderman, Jr., Esquire, Levin & Gann, 305 W. Chesapeake
Avenue, Towson, MD 21204
Mr. Todd Morrill, 1248 Lower Glencoe Road, Sparks, MD 21152
Mr. Geoffrey Schultz, McKee & Associates, Inc., 5 Shawan Road, Hunt
Valley, MD 21030
People's Counsel, M.S. 2010

Request Notification: Patrick Keller, Director, Planning and Zoning
Timothy M. Kotroco, Deputy Zoning Commissioner
Arnold Jablon, Director of ZADM

7/18/95 -Notice of Assignment for hearing scheduled for Wednesday,
October 25, 1995 at 10:00 a.m. sent to following:

People's Counsel for Baltimore County
Howard L. Alderman, Jr., Esquire
Mr. Todd Morrill
Mr. Geoffrey Schultz
McKee & Associates, Inc.
Pat Keller
Lawrence E. Schmidt
Timothy M. Kotroco
W. Carl Richards, Jr. /PDM
Docket Clerk /PDM
Arnold Jablon, Director /PDM

7/31/95 -Letter from Todd Morrill requesting consideration for earlier hearing date, should such become available, due to contract of sale and possible August settlement. Letter hand delivered to office; advised Mr. Morrill that the file would be noted and consideration given to his request in the event an earlier date does become available (presently scheduled for October 25, 1995).

8/15/95 -Letter to Mr. Morrill advising him that, at this time, the Board does not have an earlier date available; however, his letter will be held on file, and upon confirmation of availability of parties, an earlier date assigned, should one become available. (cc: H. Alderman and P. Zimmerman)

10/25/95 -Hearing concluded (95-263-SPH; 95-264-SPH; and 95-265-A). Memorandum due from Counsel by November 15, 1995. To be scheduled for public deliberation some time after receipt of same. (R.K.L.)

Received Memo:	Alderman	<u>11/15/95</u>
	Zimmerman	<u>11/14/95</u>

11/16/95 -Notice of Deliberation sent to parties; scheduled for Wednesday, December 13, 1995 at 9:00 a.m. (Copies of Memos to R.K.L.)

MICROFILMED



County Board of Appeals of Baltimore County

OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
(410) 887-3180

November 16, 1995

NOTICE OF DELIBERATION

Having concluded this case on October 25, 1995, and Memorandum of Counsel filed by November 15, 1995, the County Board of Appeals has scheduled the following date and time for deliberation in the matter of:

**TODD MORRILL -PETITIONER/APPELLEE
CASES NO. 95-263-SPH; NO. 95-264-SPH;
AND NO. 95-265-A.**

DATE AND TIME : Wednesday, December 13, 1995 at 9:00 a.m.
LOCATION : Room 48, Basement, Old Courthouse

cc: People's Counsel for Baltimore County
Howard L. Alderman, Jr., Esquire
Mr. Todd Morrill
Mr. Geoffrey Schultz
McKee & Associates, Inc.
Pat Keller
Lawrence E. Schmidt
Timothy M. Kotroco
W. Carl Richards, Jr. /PDM
Docket Clerk /PDM
Arnold Jablon, Director /PDM
Virginia W. Barnhart, County Attorney

**Kathleen C. Bianco
Administrative Assistant**

R.L.K. /copied

MICROFILMED



COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY

MINUTES OF DELIBERATION

IN THE MATTER OF: Todd Morrill -Petitioner
Case No. 95-263-SPH
Case No. 95-264-SPH
Case No. 95-265-A

DATE : December 13, 1995 at 9:00 a.m.

BOARD /PANEL : Robert O. Schuetz (ROS)
Lawrence M. Stahl (LMS)
Kristine K. Howanski (KKH)

SECRETARY : Kathleen C. Bianco
Administrative Assistant

Among those present at the deliberation were Howard L. Alderman, Jr., Esquire, on behalf of Petitioners; and Peter Max Zimmerman, People's Counsel for Baltimore County, and Carole S. Demilio, Deputy People's Counsel, Appellant.

PURPOSE --to deliberate issues and matter of petition presented to the Board; testimony and evidence taken at hearing of October 25, 1995. Written Opinion and Order to be issued by the Board.

ROS: Good morning, everyone. We are here to deliberate Case No. 95-263-SPH; Case No. 95-264-SPH; and Case No. 95-265-A, the Todd Morrill Property. The purpose of today's convening is to comply with the open meetings law as it applies to the Board of Appeals and what is going to be discussed this morning is going to be the issues considered by the members of the Board, but does not represent the official record. The official record will be the Order and Opinion that will come subsequent to this proceeding.

In chambers, we discussed that I would go first. I have to say that this is a situation that I find myself in an unusual position. Unusual in several respects. On a personal level, I generally come out here with a pretty fair direction, almost to the word, in what I want to say, when I come out here and discuss with colleagues. Generally I'm able to do that shooting from the hip. I believe that that is more in the spirit of the open deliberations. And there's going to be some of that today. But I did take a number of notes relative to this case -- leads to several questions that I hope to discuss. I believe that part of the issue is density in this particular matter. We have an undersized lot - R.C. 4; an adjoining parcel is split-zoned and the question is -- can a

RECEIVED

Deliberation /Todd Morrill -Petitioner
Case No. 95-263-SPH; Case No. 95-264-SPH; and Case No. 95-265-A

Petitioner use Parcel A for purposes of development on adjoining lot of record to support residential use? And the issue as an accessory was the question of what constitutes accessory use and whether or not a septic reserve area can be on the adjoining property.

This will I guess give you a clue at what I'm looking at. Density has been established; following that procedure, we have no additional density as a result of that development. But converse to that is the fact of reduced density in the area. I believe that the current zoning applies in the area, and we have testimony from Mr. Schultz that development could occur as a matter of right but for lot size. We had issues of septic reserve area on existing lot; did not perk. Had to locate on adjoining property; perfectly normal sequence of events seeking use of property. However, situation where we have less than one acre; we've got a question of whether or not Section 304 applies. We had the testimony of Mr. Schultz -- on re-cross -- the lot did not exist prior to 1955, but contends that 304 applies today; here's where we get into the interesting part of the case.

Section 304.1(a) indicates that such lot shall have been duly recorded by deed or in approved subdivision prior to 1955; but we have situation here - on its face you would say it fails. However, the lot conformed to the zoning regulations when it was created. And therefore we get to a question, which I do not believe was argued here, one that Larry Schmidt and I have battled over -- can 304 be varied under 307? What's muddled the waters frankly is the testimony of Mr. Schultz - excellent witness - raised number of good issues. Mr. Schultz indicated that the Petitioner - that there is a willingness to record. Section 304.1(c) speaks to the issue of adjoining land, where the owner of the land does not own sufficient adjoining land to comply, etc. We have exactly that, but we don't necessarily have where the recording has not taken place. In absence of recording, can we assume the continued ownership of Parcel A together with subject site, or should we turn to testimony of Mr. Schultz and say recording should have occurred prior to filing? Keeping in mind, of course, that density is at the heart of the issue - truly have not made up my mind in this matter; would like to have that question answered by my colleagues. In my view, this is one of those cases in the Board's purview that points to a hole in the wall, if you will. Petitioner has piece of property; able to develop as a matter of right; but as consequence of circumstances, may not be able to because of the ownership rights on an adjacent piece of land. That is nonsensical.

Deliberation /Todd Morrill -Petitioner
Case No. 95-263-SPH; Case No. 95-264-SPH; and Case No. 95-265-A

LMS: Let me just say for the record - we are here under the open deliberations rules. I've been practicing almost 25 years, and I find it's a difficult process at best. In a case like this, it makes it even more difficult because, frankly, when it's a complicated issue, triers of fact should really be able to ask stupid questions of each other; sometimes more difficult to do than at other times. I make my usual comments that our brethren in the Circuit Court should only have to do what they have mandated we must do.

My question to you - give me scenario on re-recording; if follow dotted line - if they recorded and if they did and if they did not - and define "record."

ROS: To combine lots; to re-record; per testimony of Mr. Schultz - develop as matter of right, as minor subdivisions which might go to the DRC; I would imagine DRC would have to determine; I don't know.

LMS: That would be R.C. 4 portion.

ROS: He develops as a matter of right; wherever septic field occurs on property; regulations indicate that septic field - reserve area - has to be in same zone. The case probably does not even come here. I think they are asking us to make a call as to what really applies -- without having to go the route of re-recording. What happens if we grant it? We allow him to build; at this point, I'm inclined to do just that. Question -- what happens if you do this; what is disposition of adjoining property? Asking for call under special hearing. Has pretty far-reaching effect; what is effect on similar properties? In this case we have a situation where Parcel A - lot is unusable. The real issue is what is going to happen to that property if it were used.

LMS: I have no answer either yet; thoughts occur today. What effect will this have 2 years or 6 months from now? Does it make difference? Every decision has an effect on what comes later. In the context of a special hearing - if we determine based on these particular facts and circumstances - that we allow or don't allow that it's really going to have as far reaching effect ---

KKH: This concern is more directed to density; what is the

Deliberation /Todd Morrill -Petitioner
Case No. 95-263-SPH; Case No. 95-264-SPH; and Case No. 95-265-A

ramification of what we do; what is long-term implication for that?

ROS: In this particular case - density has already been established. I believe that if we find as People's Counsel would have us do - the converse is that we would reduce density in the area. That is not within the purview of this Board.

KKH: I'm not that concerned about any far-reaching aspects because the County Council has already said what it wants in terms of zoning. They are free to stay with that or change that. Farmers complain when change is necessary; reduces value of land. Changes can still be made, but may be a price.

LMS: I was thinking, given all different statutes and holes that may exist - we may be taking step back from it and trying not to simplify it. Comments made in one of the briefs that everybody going through definitions of density. As we take density to mean.

RECESS FOR TELEPHONE CALL; reconvened.

LMS: I was talking about trying to step back; try to simplify issues. As we are talking about density and defining density, people per unit in some manner, shape or form; is what petitioner is requesting going to change density that he already has; is it going to alter it, bring any more development than would otherwise have been applicable? If we allow this, are we increasing density simply by utilizing portion of A to provide accoutrement to what is already R.C. 4?

I'm not convinced that we are changing anything if we allow them to use, or Petitioner to use that additional property. I also ask myself the question -- in broad general terms - is the use of A for something underground, is that a "use of some sort" that causes us a problem; does it muddy the waters, simplify waters? It seems to me that although there are laws and cases - about bootstrapping commercial - I understand that - they even allow parking under some circumstances which I guess is more of a use but almost temporary use - does not change density of either of the properties; still have commercial property, if you use residential to provide parking - some cases say it's okay; not changing commercial density. In a way, I'm concurring if utilizing on a residential purpose

Deliberation /Todd Morrill -Petitioner
Case No. 95-263-SPH; Case No. 95-264-SPH; and Case No. 95-265-A

to allow permitted zoning to continue without changing zoning of Parcel A; do not believe septic and well really changes nondensity.

KKH: Are we talking about density when we use nondensity lot to service another lot? In Zoning Commissioner's Policy Manual, 1A004B - in there it does appear to construe use of lots as a non-density related activity; referring to sale, transfer of small parcels in (1) - R.C. zoned parcels too small to meet lot size...may be permitted.

Then it gets into something Rob is talking about - let's say we don't have legal problem with this density issue - did that jump through the right hoops? In R.C. 2 zone, parcel could possibly be transferred; correct number of lots.

LMS: And interestingly enough, it does not increase density.

KKH: Believe that's true; appears to contemplate special hearing to assess nondensity transfers. On other hand, I have to acknowledge there could be some use of non-density land that would be so intense as to go against the objective of the regulations. Our job is not to say this use. So intense it's contrary to purpose; our job is to say - does it change density. If not, we have no reasons to interfere with it. Back to 304 -- otherwise you are in a situation where you have someone with undersized lot bootstrapping other provisions.

ROS: I think that is consistent -- your assessment is consistent with my view of the intention of 304.1c; owner does not own sufficient land to comply with area requirements; seeking a way to obtain proper use.

LMS: Without changing density.

ROS: So ends are preserved; appropriate for that area. I think that the theory is consistently applied; what you do -- in my view -- having heard the answers to my questions - I would say I would grant the special hearing; I would find as offered by Mr. Schultz - that 304 applies; that a variance from 304.1 is necessary in that the letter of the law states that the lot shall have been duly recorded by deed or subdivision prior to March 1, 1955, when in fact this was created later, but was

Deliberation /Todd Morrill -Petitioner
Case No. 95-263-SPH; Case No. 95-264-SPH; and Case No. 95-265-A

not consequence at that time. To find contrary to County Council would be confiscatory; we would be reducing density and devaluing parcel A to zero.

KKH: I did not find the testimony of uses for Parcel A persuasive. It is practical difficulty.

LMS: Listening to him talk about various ways of doing it led me to conclusion - what they are doing probably makes most sense. Question - would we have no problem as for instant Parcel A which was purchased by Petitioner later on; if he did not own Parcel A, had R.C. 4 lot that did not perk - no question that he could not develop that parcel. Assuming he did not have availability of land, could do nothing with R.C. 4. The fact that he was able to purchase land - as long as nature does not change particularly, I don't think it changes anything. But another way, he should be harmed because the particular facts of this enabled Petitioner to buy adjacent piece of property and zoning does match. Why should he not be allowed to do it?

ROS: From what I'm hearing, am I to assume that we concur finding that we should be granting?

LMS: Yes. I'm coming around to it. No compelling reason why he should not be allowed to do it.

KKH: I'm in the same position at this point; I was troubled still by the first question; but it's clear -- testimony at least persuasive; could be done a number of different ways, but I think we are persuaded that it's not a density issue. That's not what's being indicated by doing this. I want to make sure that when we look at variances, we don't just run right over them.

KKH: We are not in a position where we have to consider a variance.

ROS: I actually believe they meet 304.1.

LMS: Meets setback requirements.

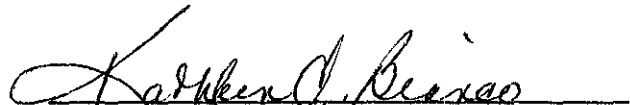
ROS: Different variance; question of whether you can vary 304. I

Deliberation /Todd Morrill -Petitioner
Case No. 95-263-SPH; Case No. 95-264-SPH; and Case No. 95-265-A

think I sat on a case - granted variance from 304, but that's not before us this morning. I would say that I believe it meets 304 because of the history of the property.

Closing statement by ROS: I think we are in agreement. You should look for opinion and order. Any petition should be taken from the date of that Order and not necessarily from today's date. Thank you very kindly.

Respectfully submitted,


Kathleen C. Bianco
Administrative Assistant

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon, Director DATE: September 27, 1996
Permits & Development Management

FROM: Charlotte E. Radcliffe *ce*
County Board of Appeals

SUBJECT: Closed Files: Case Nos.
95-263-SPH, 95-264-SPH and 95-265-A
TODD MORRILL - Petitioner
7th E; 3rd C

As no further appeals have been taken regarding the subject case, we are hereby closing the files and returning same to you herewith.

Attachment (Case File No. 95-263-SPH, 95-264-SPH and 95-265-A)

MICROFILMED

FRANCIS J. VELEZ, M.D., F.A.C.S.

9515 HARFORD ROAD
BALTIMORE, MD 21234
665-0044

2 COLGATE DRIVE, STE. 101
FOREST HILL, MD 21050
838-4118

October 20, 1995

County Board of Appeals
Baltimore County
Old Court House Room 49
400 Washington Avenue
Towson, MD 21204

95 OCT 21 11 31 AM '95

RE: Todd Morrill 95-263, 95-265, 95-265

Dear Board of Appeals,

It has come to my attention that Mr. Morrill intends to build yet another house above West Liberty and Harris Mill Road. It is my understanding that he intends to purchase an additional small lot, which is non-density, to further enhance his profits by being able to sell yet another home in this rural community. This immediate lot not only encompasses a very old grave yard, but is closely located to Deer Creek, a pristine, fresh water run-off in Northern Baltimore County.

Not only has this area been developed to its maximum, but the Morrills' have recently won permits to develop farm land, only one mile north, on Harris Mill Road.

I am sorry that I could not attend the hearing in person, but previous obligations have prohibited me doing so. If given the opportunity, I would be more than happy to testify in person. I purchased my Harris Mill farm five years ago with the intention of preserving its original nature. Since that time, extensive developments have threatened the very essence of this community.

Sincerely,

Francis J. Velez, M.D., F.A.C.S.
FJV/mp

RECEIVED

**THE VALLEYS
PLANNING COUNCIL, INC.**

212 Washington Avenue
P.O. Box 5402
Towson, Maryland 21285-5402
410-337-6877
410-296-5409 (FAX)

October 20, 1995

Mr. Robert O. Schuetz
County Board of Appeals
Old Court House, Room 49
Towson, MD 21204

**Re: Todd Morrill Lot (21300 West Liberty
Road -- 95-263 SPH, 95-264-SPH, 95-265A)**

Dear Mr. Schuetz:

This case involves the placement of a septic field for a lot at 21300 West Liberty Road on an adjoining "non-density" parcel. The Valleys Planning Council opposes this use strongly.

21300 West Liberty Road is a legal lot of record. Nonetheless, it is, in fact, unable to support a dwelling, since no area has been found for a septic field on it. As it stands, it represents no more than open space. [This is confirmed, I believe, by the low purchase price: only \$3000, according to the Land Records].

The contiguous "non-density" parcel was so designated as a condition for approval of an adjacent subdivision. Such a parcel, which, by County ruling, cannot support any density, should not be used to make this lot buildable. Use of the parcel in this way amounts to using a non-density parcel to create density.

Mr. Kotroco has pointed out that the "openness" of the non-density parcel will be retained. But the immediately adjoining parcel at 21300 West Liberty will now be built on, though it would have remained open otherwise. Thus the "openness" of the neighborhood will, in fact, decrease.

I am personally aware of many undersized, substandard lots in agricultural and reservoir protection areas which may become developable if this interpretation of "non-density" is allowed. These will create areas of development at an intensity much greater than that allowed by the present Resource Conservation zoning. Certainly, this result

95 OCT 23 6:10:10
MICROFILMED

Page 2

would be incompatible with the intent of the legislation creating the R.C. 2 and R.C. 4 zones, which refers repeatedly to the "preservation" of natural and agricultural resources by discouraging "unsuitable types or levels of development".

Sincerely,

A handwritten signature in black ink, appearing to read "John Bernstein". The signature is fluid and cursive, with the first name "John" and last name "Bernstein" clearly distinguishable.

John Bernstein
Executive Director

cc: Hon. T. Bryan McIntire
Peter Max Zimmermann, Esq.

MICROFILMED

7/31/95
Mercantile Bldg
Towson

Ms. Kathleen Weidenhammer
County Board of Appeals

Dear Ms. Weidenhammer:

If it all possible,
I would like to move my hearing (95-263-SPH,
95-264-SPH & 95-265-V) to an earlier date.

I have a contract of sale for the property
which is supposed to settle in August.

Thank you for your consideration of my
request. Any earlier date would be appreciated.

Sincerely,
Todd Monice

95 JUL 31 PM 4:38

MICROFILMED

R. C. 4

95-265-A

R. C. 2

**BALTIMORE COUNTY
ZONING MAP N.E. 38-B
R. C. 2**

SCALE: 1" = 200'

Lot 3

Lot 2

92-337-SPH

Lot 1

R. C. 2

MICROFILMED

ITEM # 255

SITE

R. C. 4

**GORSUCH
MILLS**

CREEK

HARRIS

MILL

RD. HARRIS MILL RD.

DEER

RD. BOND RD.

LIBERTY

WEST LIBERTY

BALTIMORE COUNTY
AERIAL PHOTOGRAPH
N.E. 38-B
SCALE 1"=200'



BOND RD

95-265-A

WEST LIBERTY RD

SITE

MICROFILMED

ITEM 1255

CASE NOS. 95-263-SPH, 95-264-SPH and 95-265-A

TODD MORRILL - PETITIONER

NW/8 W. Liberty Road, 208 ft. E of c/l
Harris Mill Road (21300 W. Liberty Road)

7th Election District

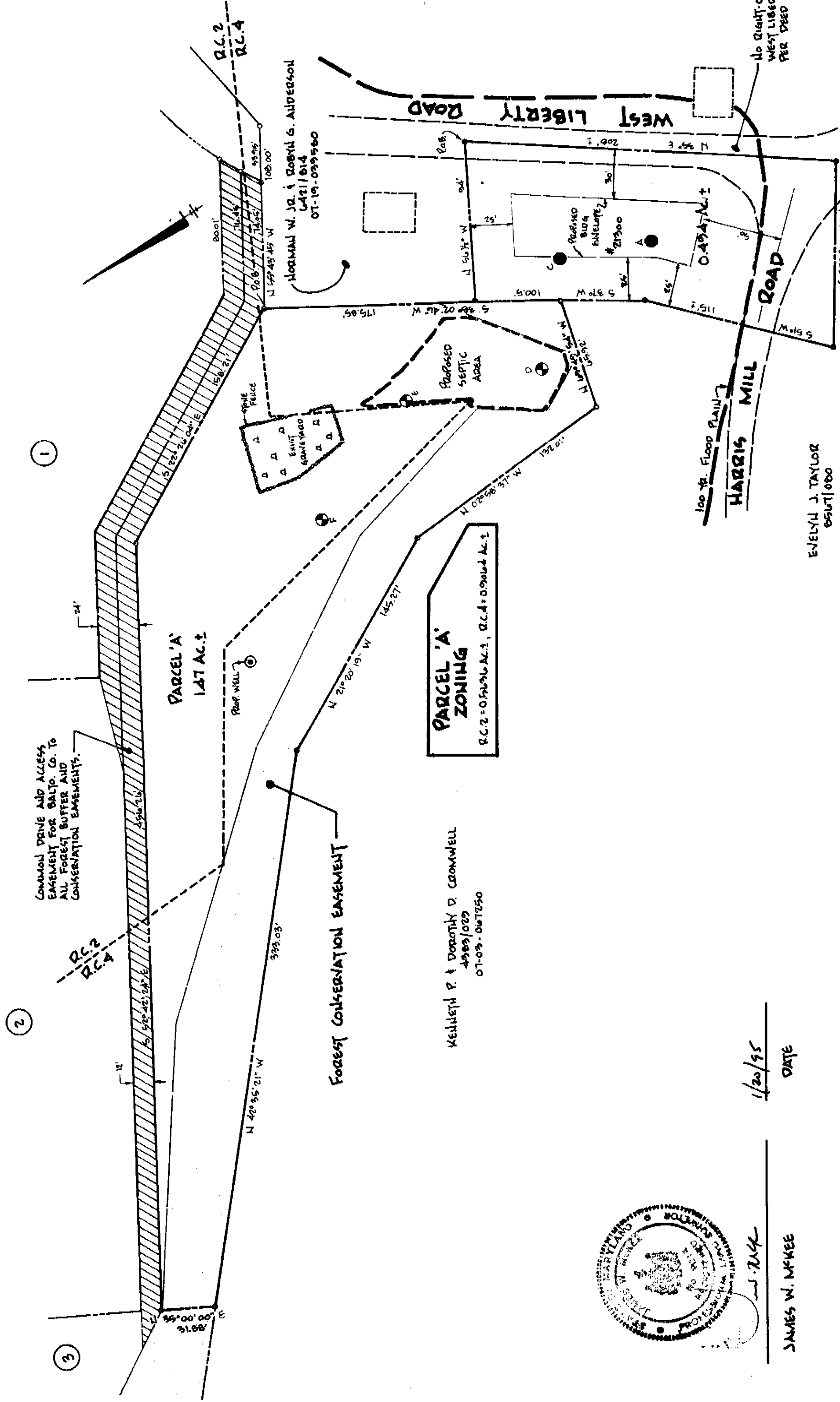
Appealed: 4/27/95

PLAT TO ACCOMPANY PETITION FOR ZONING

PROPERTY ADDRESS: 21900 WEST LIBERTY ROAD
SUBDIVISION NAME: GORSUCH HILLS 94-008-MP
PLAT BOOK: - FOLIO - SECTION -

OWNED: TODD MORRILL DEED: 10001/223

'GORSUCH HILLS'



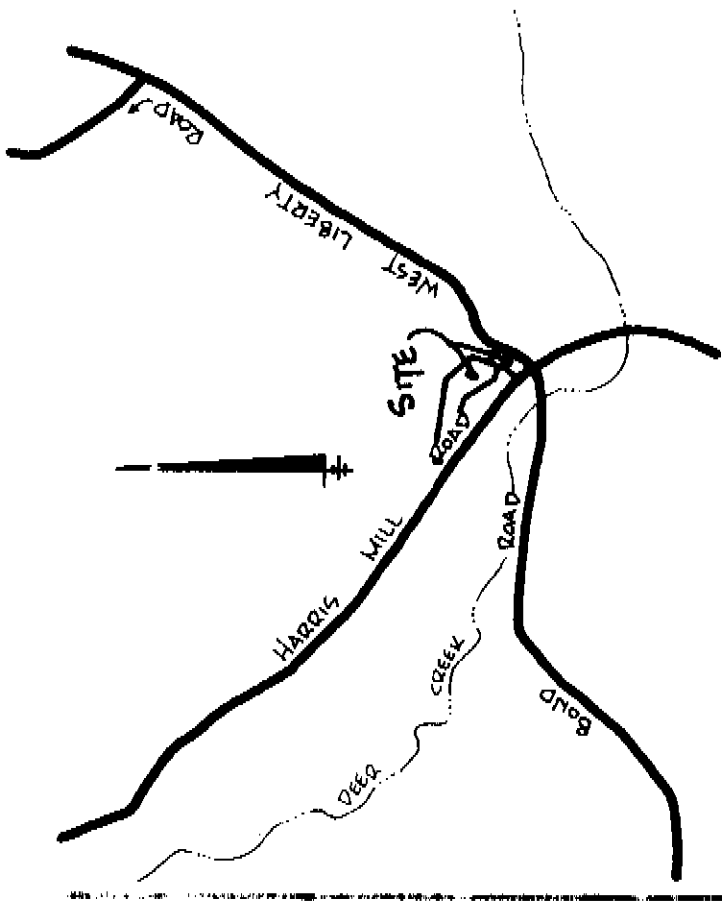
NOTE:
No lot # for 21900 West Liberty Road
as per Deed 10001/223

DATE: JANUARY 12, 1995
PREPARED BY: **McKEE & ASSOCIATES, INC.**
5 SHAWAN ROAD HUNT VALLEY, MD 21090
(410) 521-1555

SCALE OF DRAWING: 1" = 50'

ITEM # 255

MICROFILMED



VICINITY MAP
SCALE: 1" = 100'

LOCATION INFORMATION

COUNCILMANIC DISTRICT 3

ELECTION DISTRICT 7

1" = 200' SCALE MAP: NE 308

ZONING R.C.2 & R.C.4

#21900 0.494 AC.±

LOT SIZE PARCEL A' 1.47 AC.±

21,510 ±

14,053 ±

CHESAPEAKE BAY CRITICAL AREA
X
X
X

PAID ZONING HEARINGS YES
CASE # 93-2009-SP4

ZONING OFFICE USE ONLY

REVIEWED BY

ITEM #

PETITIONER'S
EXHIBIT

95-265-A

IN THE MATTER OF THE
THE APPLICATION OF
TODD MORRILL
FOR SPECIAL HEARINGS AND
VARIANCE ON PROPERTY LOCATED
ON THE NORTHWEST SIDE OF W.
LIBERTY ROAD, 208' E OF C/L
HARRIS MILL (21300 W.
LIBERTY ROAD)
7TH ELECTION DISTRICT

* BEFORE THE
* COUNTY BOARD OF APPEALS
* OF
* BALTIMORE COUNTY
* CASE NOS. 95-263-SPH
95-264-SPH
95-265-V

OPINION

This case comes on appeal of the Deputy Zoning Commissioner's March 30, 1995 decision in which the Petitions for Special Hearing in the instant case were granted and Petition for certain Variances was Dismissed as Moot. The matter was heard de novo in a single day of testimony; the Petitioner was represented by Howard L. Alderman, Jr., Levin & Gann; People's Counsel participated in the matter and appeared as Appellant represented by Carole S. Demilio, Deputy People's Counsel. It should be noted that there were no Protestants below.

Appearing for the Petitioner was Jeffrey C. Schultz of McKee and Associates, Inc., Civil Engineer who prepared the plat to accompany the Petitions for Zoning Variance and Special Hearing, and the Petitioner, Todd L. Morrill, and Jeffrey Long, Baltimore County Office of Planning. Appearing for People's Counsel was Paul Solomon, former Chief of the Environmental Planning Section of the Baltimore County Office of Planning and Zoning. Testimony was received in a single day and memoranda received from counsel in lieu of closing argument. This case was subsequently deliberated in open hearing.

Case Nos. 96-263-SPH; 95-264-SPH; 95-265-V Todd Morrill 2

The properties in question are the lot at 21300 W. Liberty Road ("Morrill lot") as well as Parcel A of the Gorsuch Hills subdivision located in the 3rd councilmanic district of Northeast Baltimore County. Parcel A was the subject of a prior Special Hearing, Case No. 93-289-SPH. The Morrill lot is located at the northern intersection of Harris Mill Road and W. Liberty Road, is roughly rectangular, .494 acres in area, is zoned RC-4, and is partially traversed by Harris Mill Road and W. Liberty Road. Parcel A abuts the Morrill lot at the northeast corner of the Morrill Lot, is roughly 1.47 acres in area, is split-zoned RC-2 and RC-4 and is part of the Gorsuch Hills subdivision. The Morrill lot was created as a lot of record in 1958, by the sale of the property from Albert and Elsie Sites to David and Eva Hill (Petitioner's Exhibit No. 7); in 1966, David and Eva Hill sold the Morrill lot to Hugh and Lillian Poe (Petitioner's Exhibit No. 6); in 1973, the property was conveyed to Robert Price, Sr. and Sally Price Michael; and on September 9, 1994, the property was conveyed to Mr. Todd L. Morrill, Petitioner in the instant case.

Parcel A is a parcel which was part of the Gorsuch Hills subdivision but which has no density units assigned to it for the purposes of residential development. Parcel A is also the subject of the Special Hearing Case No. 93-289-SPH before the Deputy Zoning Commissioner of Baltimore County wherein the parcel was stipulated to be transferred to the adjacent property owner for "non-density purposes". In the Petitions for Special Hearing, the Petitioner seeks approval to permit a well and septic system to be located on

Case Nos. 96-263-SPH; 95-264-SPH; 95-265-V Todd Morrill 3

the adjoining Parcel A to support the construction of a single family dwelling on the Morrill lot; further, Petitioner seeks the use of the Morrill lot for the construction of a single-family dwelling as a lot created prior to the adoption of the R.C. zones and to determine that the proposed building envelope met building setback requirements of the Baltimore County Zoning Regulations (BCZR) Section 1A03.4.B.2 or, in the alternative, if the Board determines that previously adopted setback requirements of the BCZR 1A03.B.4 (per Bill No. 98-75) are applicable, to consider Petition for Variance from the aforementioned building setbacks. The Petitioner seeks Special Hearing for the placement of well and septic on Parcel A as a result of failed percolation tests on the Morrill Lot to support a single-family dwelling. The zoning history of the Morrill Lot is somewhat difficult to ascertain. The official zoning map which was adopted by the County Council in 1971, was created using a photogrammetric map which was performed in April, 1961; that zoning map shows an "L" shaped building on the Morrill lot which was zoned B.L. along with neighboring properties about the intersection of Harris Mill Road and W. Liberty Road, with areas all around the B.L. zoned properties being zoned R.D.P. (Rural Deferred Planning). Exactly when the Morrill lot was zoned B.L. as opposed to any other residential zoning classification (R-6) is not clear, but evidence indicates that a general store was in operation on the Morrill lot dating back at least to the 1960s. BCZR Section 304, (1955) described use of undersized single family lots and the criteria to accomplish such use. At the time of the

Case Nos. 96-263-SPH; 95-264-SPH; 95-265-V Todd Morrill 4

promulgation of the BCZR (1955), the B.L. classification allowed residential uses with height and area requirements described in Section 232; Section 232.1, 2, and 3 refer one to the 1955 BCZR Section 302 and 303.1 to ascertain the area requirements. Section 302 indicates that, in the absence of a predominant surrounding residential zone, the R-6 area requirements shall govern. The instant lot was created subsequent to the promulgation of those zoning regulations and recorded in the Land Records of Baltimore County. The RC-2 and RC-4 zoning classifications were created under Bill No. 98-75 and amended by Bill Nos. 178-79, 199-90 and 113-92.

Mr. Jeffrey Schultz testified regarding the zoning and ownership history of the Morrill lot and Parcel A. He also testified concerning the proposed development, more thoroughly described on Petitioners Exhibit No. 1 that the Petitioner would provide access to an existing graveyard on Parcel A; that the Petitioner is willing to re-record the consolidation of the Morrill lot and Parcel A; that the placement of water, well and septic on Parcel A has no effect on the current and future possible uses on Parcel A as contemplated in the approval of the Gorsuch Hills subdivision; that the Morrill lot is larger than an adjoining property owner's (Anderson) lot; and that denial of Special Hearing and/or Variances would result in reduced density on the RC-4 Morrill lot presenting practical difficulty for the Petitioner. On cross-examination, Mr. Schultz indicated that he does not know if the Morrill lot, created in 1958, was approved by the Planning

Case Nos. 96-263-SPH; 95-264-SPH; 95-265-V Todd Morrill 5

Office at that time; that Petitioner plans approximately 1,500 square feet of impervious surface; that the septic reserve area, as proposed, will abut but not traverse the forest conservation area; that at the time of creation of the lot, the lot was not undersized per the BCZR then in existence; and, that it met the area requirements of the R-6 and B.L. zoning classifications in 1958. Traversing the property described by Mr. Schultz is Harris Mill Road and W. Liberty Road with no right-of-way to describe the aforementioned roads; Mr. Schultz indicated that a right-of-way was not required because the Morrill lot is an existing lot of record. Mr. Schultz also indicated that the Morrill lot remains unaltered since its creation in 1958.

Mr. Todd Morrill provided some historical information concerning the prior use of the Morrill lot as a general store and grist mill, going on to state that the foundation of the former grist mill still exists. On cross-examination, Mr. Morrill indicated that he intends to consolidate Parcel A and the Morrill lot.

Jeffrey Long, of the Baltimore County Office of Planning, indicated that Baltimore County would not oppose a lot line adjustment so long as the adjustment would not result in additional density, going on to state that, had the Petitioner owned Parcel A and the Morrill lot before the subdivision, that the parcel could have been adjusted with the support of the Office of Planning. Mr. Long also opined that the proposed single-family dwelling and placement of well and septic on Parcel A has no negative impact on

Case Nos. 96-263-SPH; 95-264-SPH; 95-265-V Todd Morrill 6

the potential agricultural use of Parcel A. Mr. Long's testimony concluded the Petitioner's case.

For People's Counsel, Mr. Paul Solomon testified to the history of R.C., R.D.P. and subsequently, R.C. zoning classifications. Mr. Solomon opined that the use of Parcel A for well and septic is a de facto use of density and that his position would be the same if the Petitioner were to combine Parcel A and the Morrill lot. He went on the state that Parcel A could be used for agricultural purposes, and that the placement of well and septic reduces the area usable for such agricultural endeavors.

The description of Parcel A in prior Case No. 93-289-SPH was stipulated as a non-density area to exist as open-space for additional back yard of the adjoining property owners, Norman and Robyn Anderson. The Andersons never completed the purchase of Parcel A. One of the questions for this Board is whether the placement of well and septic on Parcel A to support a single-family dwelling on the Morrill lot can be accomplished in view of the prior case. The Board finds that the proposed placement of well and septic on Parcel A is within the spirit of the earlier case in providing open space as part of the Gorsuch Hills subdivision. People's Counsel argues that the placement of the well and septic constitutes a use of the parcel which carries implied density. Mr. Jeffrey Schultz points out that the denial of placement of well and septic on Parcel A results in rendering the Morrill lot as unusable, thereby reducing density in the area. The Board finds Mr. Solomon's testimony rather unconvincing as to the agricultural

Case Nos. 96-263-SPH; 95-264-SPH; 95-265-V Todd Morrill 7

use of Parcel A, and finds that the proposed well and septic may be placed on Parcel A as such placement does not interfere with the open space provided as part of the Gorsuch Hills subdivision.

The next issue for the Board to decide is whether the proposed building envelope on Petitioner's Exhibit No. 1 meets the applicable setback requirements. At issue is which set of setback requirements are applicable to this case: BCZR promulgated in 1955 which calls for setbacks in accordance with the R-6 zoning classification; the setback requirements for RC-4 zoning classifications promulgated in 1975 which would result in necessitating the requested variance in the instant case; or the current RC-4 setback requirements found in the current edition of the BCZR. The Board finds that the current height and area regulations of the BCZR for RC-4 zones apply and that per BCZR 1A03.4.B.2, the proposed building envelope is in compliance. Two points must be explored at this point. The Board, sua sponte, questions whether the northernmost corner of the proposed building envelope is in fact at least 100 ft. from the acute angle formed by the RC-2 and RC-4 zone line aforesaid to the proposed septic area; the Board shall stipulate that the proposed building envelope shall be at least 100 ft. from that zone line, and that any error in drafting shall result in reducing the proposed building envelope to meet that requirement. Second, People's Counsel argues that the front building setback on W. Liberty Road does not comply with BCZR 1A03.4.B.2.a. or b.; the Board finds that W. Liberty Road is a public road, but the facts of this case indicate that neither

Case Nos. 96-263-SPH; 95-264-SPH; 95-265-V Todd Morrill 8

Harris Mill Road nor W. Liberty Road are described in a right-of-way nor an easement to traverse the Morrill lot. Neither W. Liberty Road nor Harris Mill Road is a private road; therefore, the Board finds that the Petitioner is left with little guidance but the previous setback requirements described in 1955 BCZR for R-6 development wherein building setback is required to be an average setback from nearby properties. The Board finds, because W. Liberty Road and Harris Mill Road are not described as a County right-of-way and because they are not private roads, that the proposed setbacks meet the aforementioned setback requirements and that the proposed building envelope setback is consistent with nearby properties, and therefore the zoning regulations in effect at the time the lot was created. Therefore, the Board finds that, pursuant to proper application for a building permit and compliance with engineering requirements of septic reserve and well, the determinations sought in this Special Hearing case will be granted, thereby negating the need for consideration of the Petitions for Variance in this matter. However, the Board is compelled to address the Variance issue in this matter.

In Cromwell v. Ward, 102 Md.App. 691 (1995), Court of Special Appeals, provides guidance for the Board in consideration of variances. First to be determined is whether the property is unique; having passed the first test, the Board is to determine whether strict compliance with the zoning regulations would result in practical difficulty or unreasonable hardship for the Petitioner. This Board finds that the instant Morrill property,

Case Nos. 95-263-SPH; 95-264-SPH; 95-265-V Todd Morrill 9
being an undersized lot for the RC-4 classification, is unique in several respects; first, the property is traversed by two public roads which are not described as a right-of-way thereby reducing the usable area to the detriment of the Petitioner; second, the Morrill lot was created in 1958 and was in compliance with then existing zoning regulations and usable for the purposes of development as a residence until the promulgation of the RC-4 zoning classification, only to be once again brought back into compliance by the revision of the RC-4 area regulations. The mere existence of this lot as an undersized lot in compliance with prior zoning regulations and subsequent revision of the regulations makes the disposition of this property unique when compared to other properties in Baltimore County. The second test being that the strict adherence of the zoning regulations would result in practical difficulty or unreasonable hardship is illustrated by the potential denial of the variance and subsequent inability of the petitioner to develop the land as proposed. The Board finds that such denial would constitute an unreasonable hardship; therefore, the Board would grant the Variance were it asked to do so.

ORDER

IT IS THEREFORE this 20th day of May, 1996 by the County Board of Appeals of Baltimore County

ORDERED that the Petition for Special Hearing in Case No. 95-263-SPH to approve residential use of an existing lot created prior to the adoption of the R.C. zones for one single family dwelling be and is hereby GRANTED; and it is further

Case Nos. 95-263-SPH; 95-264-SPH; 95-265-V Todd Morrill 10
ORDERED that the building setback requirements of Section 1A03.4B.2 of the Baltimore County Zoning Regulations are applicable to the subject property; and that the Petition for Special Hearing in Case No. 95-264-SPH to permit a modification to the relief granted in prior Case No. 93-289-SPH to permit a well and septic system to be located as shown on Petitioner's Exhibit 1 be and is hereby GRANTED; and it is further
ORDERED that the Petition for Variances in Case No. 95-265-A be and is hereby DISMISSED AS MOOT.

Any petition for judicial review from this decision must be made in accordance with Rule 7-201 through Rule 7-210 of the Maryland Rules of Procedure.

COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY
Robert O. Schuetz, Chairman
Lawrence M. Stahl
Kristine K. Nowanski

County Board of Appeals of Baltimore County
OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
(410) 887-3180

Peter Max Zimmerman
People's Counsel
for Baltimore County
Room 47, Old Courthouse
400 Washington Avenue
Towson, MD 21204

RE: Case Nos. 95-263-SPH,
95-264-SPH and 95-265-V
Todd Morrill - Petitioner

Dear Mr. Zimmerman:

Enclosed please find a copy of the final Opinion and Order issued this date by the County Board of Appeals of Baltimore County in the subject matter.

Any petition for judicial review from this decision must be made in accordance with Rule 7-201 through Rule 7-210 of the Maryland Rules and Procedure. If no such petition is filed within 30 days from the date of the enclosed Order, the subject file will be closed.

Very truly yours,

Charlotte E. Radcliffe
Charlotte E. Radcliffe
Legal Secretary

encl.

cc: Howard L. Alderman, Jr., Esquire
Mr. Todd Morrill
Mr. Geoffrey Schultz
McKee & Associates, Inc.
Pat Keller
Timothy M. Kotroco
W. Carl Richards, Jr. /PDM
Docket Clerk /PDM
Arnold Jablon, Director /PDM
Virginia W. Barnhart, County Attorney

IN RE: PETITIONS FOR SPECIAL HEARING AND VARIANCE - NW/SE Liberty Rd., 240' N of e/l of Harris Mill Rd. (21300 West Liberty Road) 7th Election District 3rd Councilmanic District
RE: Case Nos. 95-263-SPH, 95-264-SPH, and 95-265-A
Todd Morrill
Petitioner

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Deputy Zoning Commissioner as combined Petitions for Special Hearing and Variance for that property known as 21300 West Liberty Road and Parcel "A" adjacent thereto, located in the vicinity of Gorseuch Mills in northern Baltimore County. The Petitions were filed by the owner of the property, Todd Morrill, through his attorney, Howard L. Alderman, Jr., Esquire. In Case No. 95-263-SPH, the Petitioner seeks approval of the residential use of an existing lot created prior to the adoption of the R.C. zones for one single family dwelling and to determine that the building setback requirements of Section 1A03.4B.2 of the Baltimore County Zoning Regulations (B.C.Z.R.) are applicable to the subject property, or in the alternative, should this Deputy Zoning Commissioner determine that the previously adopted setback requirements of Section 1A03.4B.4, per Bill No. 98, 1975, are applicable, consideration of the Petition for Variance in Case No. 95-265-A, by Case No. 95-264-SPH, the Petitioner seeks a modification of the relief granted in prior Case No. 93-289-SPH to permit a well and septic system to be located on Parcel "A", which is a residentially zoned, non-density parcel, adjoining 21300 West Liberty Road. Lastly, in the event alternative special hearing relief is granted in Case No. 95-263-SPH, the Petitioner seeks relief pursuant to Case No. 95-265-A, from Section 1A03.4B.4 of the B.C.Z.R. to permit a

front building setback of 40 feet in lieu of the required 100 feet from the centerline of a street; to permit a left side yard setback of 50 feet in lieu of the 100 feet required from the centerline of a street; a right side yard setback of 25 feet in lieu of the 50 feet required from a lot line, and a rear yard setback of 25 feet in lieu of the 50 feet required from a lot line other than a street line, for the construction of one single family dwelling on an existing lot of record which was recorded prior to the adoption of the R.C. zones. The subject property and relief sought are more particularly described on the site plans submitted with each Petition filed and marked into evidence respectively as Petitioner's Exhibits 1.

Appearing at the hearing held on behalf of these Petitions were Todd Morrill, property owner, Howard L. Alderman, Jr., Esquire, attorney for the Petitioner, and Geoffrey Schultz, Professional Engineer with McKee and Associates, Inc., who prepared the site plans submitted with these Petitions. There were no Protestants present.

The properties which are the subject of these requests include a 0.494-acre parcel of land, known as 21300 West Liberty Road, and an adjoining parcel comprised of 1.47 acres, known as Parcel "A" of the subdivision of Gorseuch Mills. Parcel "A" is split zoned R.C. 2 and R.C. 4, while the property at 21300 West Liberty Road is zoned R.C. 4. The Petitioner is desirous of developing the property at 21300 West Liberty Road with a single family dwelling and locating the well and septic reserve area for this dwelling on the adjoining Parcel "A". The property at 21300 West Liberty Road failed the percolation test required for a well and septic system. It should be noted that Parcel "A" was the subject of prior Case

No. 93-289-SPH in which this parcel was approved for non-density purposes by this Deputy Zoning Commissioner on May 25, 1993.

At the onset of the hearing on the instant matter, Counsel for the Petitioner raised a Motion to Dismiss the variance requested pursuant to Case No. 95-265-A, inasmuch as the dwelling proposed to be constructed at 21300 West Liberty Road meets all of the setback requirements imposed by its R.C. 4 zoning classification. Therefore, Mr. Alderman argued that the requested variance should be dismissed accordingly.

As to the special hearing relief sought by the Petitioner, it was clear from the proffered testimony presented by Mr. Alderman that the property at 21300 West Liberty Road has existed since prior to the establishment of the R.C. 4 zone and that the Petitioner has the right to construct a dwelling thereon. Furthermore, as to the alternative relief sought in Case 95-263-SPH, inasmuch as the lot on which the Petitioner wishes to construct his home would not have the Petitioner in the process of acquiring the adjoining parcel "A" from the neighboring development of Gorseuch Mills to locate the well and septic reserve area for the proposed dwelling. As noted above, Parcel "A" consists of 1.47 acres and provides more than enough area to locate a well and septic reserve area thereon. Mr. Morrill testified that once the special hearing relief is granted, he intends to finalize the purchase of Parcel "A" and merge same with the 0.494 acre parcel at 21300 West Liberty Road to create one lot of nearly 2 acres. As noted above, Parcel "A" was the subject of prior Case No. 93-289-SPH in which this Deputy Zoning Commissioner allowed this land to exist as a non-density parcel. In the opinion of this Deputy Zoning Commissioner, the proposed use of Parcel "A" for a well and septic reserve area to serve the dwelling at 21300 West Liberty Road will not interfere

ORDER RECEIVED FOR FILING
Date 5/24/96
By [Signature]

with the openness of Parcel "A" which was the intention of creating a non-density parcel in prior Case No. 93-289-SPH. Therefore, the special hearing relief requested pursuant to Case No. 95-264-SPH shall be granted and Mr. Morrill shall be permitted to use this land for a well and septic reserve area.

Furthermore, I find that the proposed dwelling meets all setback requirements imposed by Section 1A03.4B.2 of the B.C.Z.R., and as such, the Petition for Variance shall be dismissed as moot.

After due consideration of the testimony and evidence presented, it is clear that practical difficulty or unreasonable hardship would result if the relief requested in the special hearing were not granted. It has been established that the requirements from which the Petitioner seeks relief would unduly restrict the use of the land due to the special conditions unique to this particular parcel. In addition, the relief requested will not be detrimental to the public health, safety, and general welfare.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the special hearing relief should be granted and the variances dismissed as moot.

THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County this 30th day of March, 1996 that the Petition for Special Hearing in Case No. 95-263-SPH to approve the residential use of an existing lot created prior to the adoption of the R.C. zones for one single family dwelling, in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED; and,

IT IS FURTHER ORDERED that the Building Setback requirements of Section 1A03.4B.2 of the Baltimore County Zoning Regulations (B.C.Z.R.)

ORDER RECEIVED FOR FILING
Date 5/24/96
By [Signature]

are applicable to the subject property, and as such, the Petition for Special Hearing in Case No. 95-263-SPH, be and is hereby GRANTED; and,

IT IS FURTHER ORDERED that the Petition for Special Hearing in Case No. 95-264-SPH to permit a modification to the relief granted in prior Case No. 93-289-SPH to permit a well and septic system to be located on Parcel "A", an adjoining residentially zoned, non-density parcel, in the location shown on Petitioner's Exhibit 1, be and is hereby GRANTED; and, subject to the following restriction:

1) The Petitioner may apply for their building permit and be granted same upon receipt of this Order. However, Petitioners are hereby made aware that proceeding at this time in their own name and under their own time as the orderly appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the relief granted herein shall be rescinded.

IT IS FURTHER ORDERED that the Petition for Variance in Case No. 95-265-A seeking relief from Section 1A03.4B.4 of the B.C.Z.R. to permit a front building setback of 30 feet in lieu of the required 100 feet from the centerline of a street to permit a left side yard setback of 50 feet in lieu of the 100 feet required from the centerline of a street, a right side yard setback of 25 feet in lieu of the 50 feet required from a lot line, and a rear yard setback of 25 feet in lieu of the 50 feet required from a lot line other than a street line, for the construction of one single family dwelling on an existing lot of record which was recorded prior to the adoption of the R.C. zones, be and is hereby DISMISSED AS MOOT.

Timothy M. Kotroco
Deputy Zoning Commissioner
for Baltimore County

ORDER RECEIVED FOR FILING
Date 5/24/96
By [Signature]



Petition for Variance

95-265-A

#21300 West Liberty Rd

to the Zoning Commissioner of Baltimore County

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Variance from Section 1A03.4.B.4 (Bill No. 98, 1975, No. 178, 1979)

of the Zoning Regulations of Baltimore County, to the Zoning Law of Baltimore County; for the following reasons: (Indicate hardship or practical difficulty)

See Attached

Property is to be posted and advertised as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of above Variance advertising, posting, etc. upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law For Baltimore County.

I/We do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this petition.

Legal Owner(s):

Todd Morrill

(Type or Print Name)

Signature

Address

City and State

Attorney for Petitioner:

Howard L. Alderman, Jr.

(Type or Print Name)

Address

City and State

Attorney's Telephone No.: 321-0600

1248 Lower Glencon Road, 296-8903

Sparks, Maryland 21152

City and State

House, address and phone number of legal owner, contract purchaser or representative to be contacted

McKee & Associates, Inc. 327-1935

5 Shawan Road, Hunt Valley, MD 21030

Address

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING - 1/2HR. + 1HR.

AVAILABLE FOR HEARING

MON./TUES./WED. - NEXT TWO MONTHS

ALL OTHER

REVIEWED BY: R.T. DATE 1-20-95

ITEM# 255

Variance Relief:

A variance from BC2R § 1A03.4.B.4 (per Bill No. 98, 1975), to permit a front building setback of 30 feet in lieu of the 100 feet required from the centerline of a street; to permit a left side yard setback of 50 feet in lieu of the 100 feet required from the centerline of a street; a right side yard setback of 25 feet in lieu of the 50 feet required from a lot line, and a rear yard setback of 25 feet in lieu of the 50 feet required from a lot line other than a street line, for the construction of one single family dwelling on an existing lot of record which was recorded prior to the adoption of the RC zoning requirements.

Justification:

- The subject property is a lot of record, created prior to the adoption of the RC zones;
- The shape and configuration of the lot were not in the control of the Petitioner and such conditions are unique to this lot when compared to other properties in the immediate area;
- The unusual circumstances applicable to this lot are unique when compared to other lots in the immediate area; and
- For such further reasons as will be presented at the time of the public hearing held on this Petition.

ITEM# 255

MCKEE & ASSOCIATES, INC.

Engineering - Surveying - Real Estate Development

SHAWAN ROAD SHAWAN ROAD HUNT VALLEY, MARYLAND 21030

Telephone: (410) 527-1555
Facsimile: (410) 527-1563

January 17, 1995

ZONING DESCRIPTION
21300 WEST LIBERTY ROAD
SEVENTH ELECTION DISTRICT
BALTIMORE COUNTY, MARYLAND

Beginning at a point in the center of West Liberty Road at a distance of 208 feet more or less East of the intersection of Harris Mill Road; thence along the five following bearings and distances: North 56 1/2° West 94 feet, South 37° West 100.5 feet, South 51° West 115 feet more or less, South 52° East 110 feet, and North 35° East 208 feet more or less to the place of beginning.

Containing 0.494 of an acre more or less.

Also known as 21300 West Liberty Road in the Seventh Election District of Baltimore County.



CERTIFICATE OF POSTING

ZONING DEPARTMENT OF BALTIMORE COUNTY 95-265-A
Towson, Maryland

District: 27 Date of Posting: 2/14/95

Posted for: Todd Morrill

Petitioner: Todd Morrill

Location of property: 21300 West Liberty Rd

Location of Sign: 21300 West Liberty Rd

Remarks:

Posted by: [Signature] Date of return: 2/14/95

Number of Signs: 1

CERTIFICATE OF PUBLICATION

TOWSON, MD. 1925

THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper published in Towson, Baltimore County, Md., once in each of 1 successive weeks, the first publication appearing on 1/19/95.

THE JEFFERSONIAN,

A. Henrickson
LEGAL AD - TOWSON

NOTICE OF HEARING

The Zoning Commission of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing on the property identified herein at Room 106 of the County Office Building, 111 W. Chesapeake Avenue in Towson, Maryland 21204 as follows:

Case Number: 95-265-A (Item 255)
21300 W. Liberty Road, 208' E of c/l Harris Mill Road
7th Election District - 3rd Councilmanic District
Legal Owner(s): Todd Morrill

HEARING: TUESDAY, FEBRUARY 28, 1995 at 10:00 a.m. in Room 118, Old Courthouse.

Variance to permit a front building setback of 30 feet in lieu of the 100 feet required from the centerline of a street; to permit a left side yard setback of 50 feet in lieu of the 100 feet required from the centerline of a street; a right side yard setback of 25 feet in lieu of the 50 feet required from a lot line, and a rear yard setback of 25 feet in lieu of the 50 feet required from a lot line other than a street line, for the construction of one single family dwelling on an existing lot of record which was recorded prior to the adoption of the R.C. zoning requirements.

LAWRENCE E. SCHMIDT
Zoning Commissioner for Baltimore County

NOTES: Hearings are held on Tuesdays at 10:00 a.m. in Room 118, Old Courthouse, 400 Washington Avenue, Towson, Maryland 21204. For information concerning the filing and hearing, please call 887-3353.

Baltimore County Government
Office of Zoning Administration
and Development Management

111 West Chesapeake Avenue
Towson, MD 21204

(410) 887-3353

FEBRUARY 2, 1995

NOTICE OF HEARING

The Zoning Commission of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing on the property identified herein at Room 106 of the County Office Building, 111 W. Chesapeake Avenue in Towson, Maryland 21204 as follows:

Case Number: 95-265-A (Item 255)
21300 W. Liberty Road, 208' E of c/l Harris Mill Road
7th Election District - 3rd Councilmanic District
Legal Owner(s): Todd Morrill

HEARING: TUESDAY, FEBRUARY 28, 1995 at 10:00 a.m. in Room 118, Old Courthouse.

Variance to permit a front building setback of 30 feet in lieu of the 100 feet required from the centerline of a street; to permit a left side yard setback of 50 feet in lieu of the 100 feet required from the centerline of a street; a right side yard setback of 25 feet in lieu of the 50 feet required from a lot line, and a rear yard setback of 25 feet in lieu of the 50 feet required from a lot line other than a street line, for the construction of one single family dwelling on an existing lot of record which was recorded prior to the adoption of the R.C. zoning requirements.

[Signature]

Arnold Jablon
Director

cc: Todd Morrill
Howard L. Alderman, Jr., Esq.
McKee & Associates, Inc.

NOTES: (1) ZONING SIGN & POST MUST BE RETURNED TO RM. 104, 111 W. CHESAPEAKE AVENUE ON THE HEARING DATE.
(2) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL 887-3353.
(3) FOR INFORMATION CONCERNING THE FILING AND/OR HEARING, CONTACT THIS OFFICE AT 887-3391.

TO: PUTNEM PUBLISHING COMPANY
February 9, 1995 issue - Jeffersonian

Please forward billing to:

Todd Morrill
1248 Lower Glencon Road
Sparks, MD 21152
296-8903

NOTICE OF HEARING

The Zoning Commission of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing on the property identified herein in Room 106 of the County Office Building, 111 W. Chesapeake Avenue in Towson, Maryland 21204 as follows:

Room 118, Old Courthouse, 400 Washington Avenue, Towson, Maryland 21204 as follows:

Case Number: 95-265-A (Item 255)

21300 W. Liberty Road, 208' E of c/l Harris Mill Road
7th Election District - 3rd Councilmanic District
Legal Owner(s): Todd Morrill

HEARING: TUESDAY, FEBRUARY 28, 1995 at 10:00 a.m. in Room 118, Old Courthouse.

Variance to permit a front building setback of 30 feet in lieu of the 100 feet required from the centerline of a street; to permit a left side yard setback of 50 feet in lieu of the 100 feet required from the centerline of a street; a right side yard setback of 25 feet in lieu of the 50 feet required from a lot line, and a rear yard setback of 25 feet in lieu of the 50 feet required from a lot line other than a street line, for the construction of one single family dwelling on an existing lot of record which was recorded prior to the adoption of the R.C. zoning requirements.

LAWRENCE E. SCHMIDT
ZONING COMMISSIONER FOR BALTIMORE COUNTY

NOTES: (1) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL 887-3353.
(2) FOR INFORMATION CONCERNING THE FILING AND/OR HEARING, PLEASE CALL 887-3391.



County Board of Appeals of Baltimore County

OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
(410) 887-3153

Hearing Room - Room 48
Old Courthouse, 400 Washington Avenue

July 18, 1995

NOTICE OF ASSIGNMENT

NO POSTPONEMENTS WILL BE GRANTED WITHOUT GOOD AND SUFFICIENT REASONS. REQUESTS FOR POSTPONEMENTS MUST BE IN WRITING AND IN STRICT COMPLIANCE WITH RULE 2(b). NO POSTPONEMENTS WILL BE GRANTED WITHIN FIFTEEN (15) DAYS OF SCHEDULED HEARING DATE UNLESS IN FULL COMPLIANCE WITH RULE 2(c), COUNTY COUNCIL BILL NO. 59-79.

95-263-SPH
95-264-SPH
95-265-V

TODD MORRILL - Petitioner
NW/4 of W. Liberty Road, 208' E of c/l Harris Mill Road (21300 W. Liberty Road)
7th Election District
3rd Councilmanic District
SPH - Approval of residential use of existing lot created prior to R.C. zones; determine building setbacks
SPH - Modification of relief granted in 93-289-SPH /well & septic
VAR - Building, side & rear yard setbacks

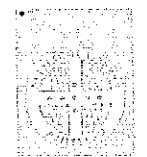
3/30/95 - D.Z.C.'s Order in which Petitions for Special Hearing were GRANTED and Petition for Variance DISMISSED as moot.

ASSIGNED FOR: WEDNESDAY, OCTOBER 25, 1995 at 10:00 a.m.

cc: People's Counsel for Baltimore County Appellant
Howard L. Alderman, Jr., Esquire Counsel for Petitioner
Mr. Todd Morrill Petitioner
Mr. Geoffrey Schultz
McKee & Associates, Inc.
Pat Keller
Lawrence E. Schmidt
Timothy W. Kotzko
W. Carl Richards, Jr. /PDM
Docket Clerk /PDM
Arnold Jablon, Director /PDM

Kathleen C. Weidenhammer
Administrative Assistant

PLEASE RETURN SIGN AND POST TO ROOM 49 ON DAY OF HEARING.



Zoning Administration of Baltimore County
111 W. Chesapeake Avenue
Towson, Maryland 21204

Account 95-265-A

Number 255

Date 1-20-95

Signature [Signature]

Signature [Signature]

Signature [Signature]

Signature [Signature]

Signature [Signature]

Signature [Signature]

Signature [Signature]

Signature [Signature]

Signature [Signature]

Signature [Signature]

Signature [Signature]

Signature [Signature]

Signature [Signature]

Signature [Signature]

Signature [Signature]

Signature [Signature]

Signature [Signature]

Signature [Signature]

Signature [Signature]

Signature [Signature]

Signature [Signature]

Signature [Signature]

Signature [Signature]

Signature [Signature]

Signature [Signature]

Signature [Signature]

Signature [Signature]

Signature [Signature]

Signature [Signature]

Signature [Signature]

Signature [Signature]

Signature [Signature]

Signature [Signature]

Signature [Signature]

Signature [Signature]

Baltimore County Government
Office of Zoning Administration
and Development Management

111 West Chesapeake Avenue
Towson, MD 21204

(410) 887-3353

February 23, 1995

Howard L. Alderman, Jr., Esquire
Levin and Gann
305 West Chesapeake Avenue
Towson, Maryland 21204

RE: Item No.: 255
Case No.: 95-265-A
Petitioner: Todd Morrill

Dear Mr. Alderman:

The Zoning Advisory Committee (ZAC), which consists of representatives from Baltimore County approving agencies, has reviewed the plans submitted with the above referenced petition. Said petition was accepted for processing by the Office of Zoning Administration and Development Management (ZADM), Development Control Section on January 20, 1995.

Any comments submitted thus far from the members of ZAC that offer or request information on your petition are attached. These comments are not intended to indicate the appropriateness of the zoning action requested, but to assure that all parties; i.e., zoning commissioner, attorney, petitioner, etc. are made aware of plans or problems with regard to the proposed improvements that may have a bearing on this case. Only those comments that are informative will be forwarded to you; those that are not informative will be placed in the permanent case file.

If you need further information or have any questions regarding these comments, please do not hesitate to contact the commenting agency or Joyce Watson in the zoning office (887-3391).

Sincerely,
W. Carl Richards, Jr.
Zoning Supervisor

WCR/jw
Attachment(s)

Printed with Soybean Ink
on Recycled Paper

BALTIMORE COUNTY, MARYLAND
INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon, Director
Zoning Administration and Development Management

DATE: Feb. 13, 1995

FROM: Robert W. Bowling, P.E., Chief
Developers Engineering Section

RE: Zoning Advisory Committee Meeting
for February 13, 1995
Item No. 255

The Developers Engineering Section has reviewed the subject zoning item. West Liberty Road is an existing road which shall ultimately be improved as a 40-foot street cross-section on a 50-foot right-of-way.

Harris Mill Road is an existing road, which shall ultimately be improved as a 40-foot street cross-section on a 50-foot right-of-way.

In accordance with Bill No. 88-82, filling within a flood plain is prohibited.

Per Topo Sheet NE 348, dated April 1961, there is an existing building on this lot. Please clarify.

RWB:aw

BALTIMORE COUNTY, MARYLAND
INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon, Director
Zoning Administration &
Development Management

FROM: Pat Keller, Director
Office of Planning and Zoning

DATE: February 13, 1995

SUBJECT: 21300 West Liberty Rd.

INFORMATION:

Item Number: 253, 254, and 255

Petitioner: Todd Morrill

Property Size:

Zoning: RC-4

Requested Action: Special Hearing & Variance

Hearing Date:

SUMMARY OF RECOMMENDATIONS:

Staff has met with the applicant's representatives, Mr. Schnitz and Mr. Alderman, to discuss the requested relief. While at first the request appears unusually complex, the applicant essentially desires to develop an undersized, previously recorded lot and to locate private utilities on adjacent land, known as Tract "A".

Should there not be a need for a variance and the provisions of Section 304 are met, staff recommends approval of the request since both the subject lot and Tract "A" are owned by the petitioner. It is recommended, however, that a restriction be placed in the order to insure that access to the graveyard is provided.

Prepared by: Jeffrey W. Long

Division Chief: Carolyn Kiser

PK/JL

ITEM253/PZONE/TXTJWL

Pg. 1

Maryland Department of Transportation
State Highway Administration

O. James Lighthizer
Secretary
Hal Kassoff
Administrator

2-7-95

Ms. Joyce Watson
Zoning Administration and
Development Management
County Office Building
Room 109
111 W. Chesapeake Avenue
Towson, Maryland 21204

Re: Baltimore County
Item No. 255 (A)

Dear Ms. Watson:

This office has reviewed the referenced item and we have no objection to approval as it does not access a State roadway and is not effected by any State Highway Administration project.

Please contact Bob Small at 410-333-1350 if you have any questions.

Thank you for the opportunity to review this item.

Very truly yours,
Ronald Burns, Chief
Engineering Access Permits
Division

BS/

My telephone number is
Maryland Relay Service for Impaired Hearing or Speech
1-800-735-7258 Statewide Toll Free

Mailing Address: P.O. Box 717 • Baltimore, MD 21203-0717
Street Address: 707 North Calvert Street • Baltimore, Maryland 21202

Baltimore County Government
Fire Department

700 East Joppa Road, Suite 901
Towson, MD 21286-5500

(410) 887-4500

DATE: 02/07/95

Arnold Jablon
Director
Zoning Administration and
Development Management
Baltimore County Office Building
Towson, MD 21204
MAIL STOP-1105

RE: Property Owner: SEE BELOW

ATTENTION: DISTRIBUTION MEETING OF FEB. 6, 1995.

Item No.: SEE BELOW Zoning Agenda:

Gentlemen:

Pursuant to your request, the referenced property has been surveyed by this Bureau and the comments below are applicable and required to be connected or incorporated into the final plans for the property.

8. The Fire Marshal's Office has no comments at this time.
IN REFERENCE TO THE FOLLOWING ITEM NUMBERS: 246, 252, 253, 254, 255, 257, 258, 259, 260, 261 AND 263.

RECEIVED
FEB 8 1995
ZADM

REVIEWER: LT. ROBERT P. SAUERWALD
Fire Marshal Office, PHONE 887-4881, MS-1105F

cc: File

Printed on Recycled Paper

BALTIMORE COUNTY, MARYLAND
DEPARTMENT OF ENVIRONMENTAL PROTECTION AND RESOURCE MANAGEMENT
INTER-OFFICE CORRESPONDENCE

TO: Mr. Arnold Jablon, Director
Zoning Administration and
Development Management

February 23, 1995

FROM: J. Lawrence Pilson
Development Coordinator, DEPRM

SUBJECT: Zoning Item #253, 254, 255 - Gorsuch Hills Par. A
21300 West Liberty Road
Zoning Advisory Committee Meeting of February 6, 1995

Agricultural Preservation Program

This request has been reviewed for prime and productive and the proposal would be directly detrimental to agricultural resources in the area.

Ground Water Management

Revised site plans are required and a well must be drilled which meets the minimum yield of one gallon per minute prior to approval of a building permit.

JLP:sp
GORSUCH/DEPRM/TXTSBP

RECEIVED
FEB 24 1995
ZADM

INTER-OFFICE CORRESPONDENCE
DEPARTMENT OF ENVIRONMENTAL PROTECTION
AND RESOURCE MANAGEMENT

TO: Zoning Commissioner

DATE: February 28, 1995

FROM: Wally Lippincott, Jr., Agricultural
Preservation

Re: Zoning Item # 253, 254, 255 - Gorsuch Hills Par. A.
21300 West Liberty Road

I wish to amend the comment that I made regarding this request and provide a brief explanation. I apologize for the lateness of this change and hope that you will consider this comment.

The original comment erroneously said that this proposal would have a "direct" detrimental impact on the agricultural resources of the area. This is incorrect the comment should read, "the proposed request may have an indirect detrimental impact on the agricultural resources of this area."

The point is a concern for the use of nondensity parcels zoned RC 2 to be used for providing septic and well in order to support additional development in a RC 2 or RC 4 zone. There is no direct negative impact on agricultural resources in this case, however, as the existing lot and the proposed additional ground is too small to support agricultural activities. The concern is for supporting additional density and the indirect impact of additional development in the resource sensitive RC 2 and RC 4 zoned areas. These areas were zoned for the protection of agricultural and watershed resources, respectively.

cc. Development Review Section

MCKEE & ASSOCIATES, INC.
Engineering - Surveying - Real Estate Development

SHAWAN PLACE, 1 SHAWAN ROAD HUNT VALLEY, MARYLAND 21036

Telephone: 410-527-1555
Fax: 410-527-1563

October 11, 1994

Mr. Arnold Jablon, Director
Office of Zoning Administration
and Development Management
Baltimore County Courts Office
401 Bosley Avenue
Towson, Maryland 21204

Re: 0.5 Acres; Located North Side of
West Liberty and Harris Mill Roads
D-7; TA 807-16-60055

Dear Mr. Jablon:

We are writing to request an opinion from your office regarding the above listed property. Currently, we are representing the owner of the property who wishes to develop the lot for a single family dwelling. The property is constricted by spatial setback requirements from existing septic systems, property lines, and floodplains to the proposed dwelling, well, and septic areas.

Our client has contacted the adjacent land owner to the north and has made arrangements to purchase "Parcel A" of the Gorsuch Hills subdivision to utilize it for placement of the well to support a dwelling on his lot.

The Gorsuch Hills subdivision was previously the subject of Special Hearing Case 893-289-SPH which designated "Parcel A" as a non-density parcel. We therefore would request an opinion from your office regarding the utilization of "Parcel A" to support a well site for a dwelling on our client's property, and any implications the Zoning Hearing would have on that use.

We also are requesting an opinion on property line setback requirements for the dwelling on this lot. The lot was previously improved by a general store and a mill, of which one's foundation remains along the property lines on West Liberty Road and the property of Norman and Robyn Anderson. Current setback regulations, if enforced, would render the site unbuildable without a variance. The property has been held intact since 1958 and may possibly be subject to previous property line setbacks.

ITEM # 253, 254, 255

Letter to Mr. Arnold Jablon
Re: 0.5 Acres; Located North Side of
West Liberty and Harris Mill Roads
D-7; TA 807-16-60055
October 11, 1994
Page Two

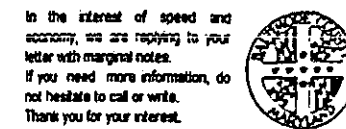
We have enclosed the following for your review, a current tax map, an approved Minor Subdivision Plat of Gorsuch Hills, a copy of the Special Hearing Order for Case #93-289-SPH, the topography showing the existing conditions found on-site, the original deed dated 1958 which created the lot, and the required \$40.00 fee. We have also enclosed a copy of an article from a February, 1993 Baltimore Sun Magazine documenting the previous structures existence.

We appreciate your consideration in matter and look forward to hearing from you in the near future.

Very truly yours,
McKEE & ASSOCIATES, INC.
Guy C. Ward
Guy C. Ward, R.S.

GCW:ajw
Enclosures

Speed
Letter



October 18, 1994

*Dear Mr. Ward:

Please be advised that your proposal would require a special hearing to amend zoning case #93-289-SPH since the function of "Parcel A" will be different from what the hearing granted. Secondly, a variance will be required since the proposed building is being established from commercial to residential use with nonconforming setbacks.

Mitchell J. Kellman
Mitchell J. Kellman
Planner II

MJK:scj

11/25/95, 2/27/95

RE: PETITION FOR VARIANCE
21300 W. Liberty Road, NW/S W. Liberty Rd.
208' E of c/l Harris Mill Road, 7th
Election Dist., 3rd Councilmanic
Todd Morrill
Petitioner
* * * * *
* * * * *

BEFORE THE
ZONING COMMISSIONER
OF BALTIMORE COUNTY
CASE NO. 95-265-A

ENTRY OF APPEARANCE

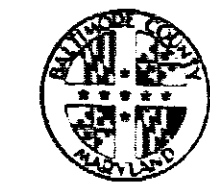
Please enter the appearance of the People's Counsel in the above-captioned matter. Notice should be sent of any hearing dates or other proceedings in this matter and of the passage of any preliminary or final Order.

Peter Max Zimmerman
PETER MAX ZIMMERMAN
People's Counsel for Baltimore County
Carole S. Demilio
CAROLE S. DEMILIO
Deputy People's Counsel
Room 47, Courthouse
400 Washington Avenue
Towson, MD 21204
(410) 887-2188

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 18th day of February, 1995, a copy of the foregoing Entry of Appearance was mailed to Howard L. Alderman, Jr., Esquire, Levin & Gann, 305 W. Chesapeake Avenue, Towson, MD 21204, attorney for Petitioner.

Peter Max Zimmerman
PETER MAX ZIMMERMAN



Baltimore County, Maryland

OFFICE OF PEOPLE'S COUNSEL
Room 47, Old Courthouse
400 Washington Ave.
Towson, MD 21204
410) 887-2188

PETER MAX ZIMMERMAN
People's Counsel

April 27, 1995

Arnold Jablon, Director
Zoning Administration and Development
Management Office
111 W. Chesapeake Avenue
Towson, MD 21204

CAROLE S. DEMILIO
Deputy People's Counsel

RECEIVED
APR 27 1995
ZADM

RE: PETITIONS FOR SPECIAL HEARING
AND ZONING VARIANCE
21300 W. Liberty Road - NW/S W. Liberty
Road, 208' E of c/l Harris Mill Road,
7th Election Dist., 3rd Councilmanic
AND
PETITION FOR SPECIAL HEARING
Parcel "A" Gorsuch Hills, 108' W. of c/l
W. Liberty Road, 340' N of c/l Harris
Mill Road, 7th Elec. Dist., 3rd Council
TODD MORRILL, Petitioner
Case Nos. 95-263-SPH, 95-264-SPH and
95-265-A

Dear Mr. Jablon:

Please enter an appeal of PEOPLE'S COUNSEL FOR BALTIMORE COUNTY to the County Board of Appeals from the order dated March 30, 1995 of the Baltimore County Deputy Zoning Commissioner in the above-entitled cases.

In this connection, please forward to this office copies of any papers pertinent to the appeal as necessary and appropriate.

Very truly yours,

Peter Max Zimmerman
Peter Max Zimmerman
People's Counsel for Baltimore County
Carole S. Demilio
Carole S. Demilio
Deputy People's Counsel

PMZ/CSU/csf

cc: Howard L. Alderman, Jr., Esquire

Baltimore County Government
Office of Zoning Administration
and Development Management



111 West Chesapeake Avenue
Towson, MD 21204

(410) 887-3353

May 1, 1995

Howard L. Alderman, Jr., Esquire
Levin & Gann
305 W. Chesapeake Avenue
Towson, MD 21204

RE: Petitions for Special Hearing and
Variance
NW/S W. Liberty Road, 208 ft.
E of c/l Harris Mill Road
21300 W. Liberty Road
7th Election District
3rd Councilmanic District
Todd Morrill-Petitioner
Case Nos. 95-263-SPH,
95-264-SPH, and 95-265-A

Dear Mr. Alderman:

Please be advised that appeals of the above-referenced cases were filed in this office on April 27, 1995 by Peter Max Zimmerman, People's Counsel for Baltimore County. All material relative to the cases have been forwarded to the Board of Appeals.

If you have any questions concerning this matter, please do not hesitate to contact Julie A. Winiarski at 887-3353.

Sincerely,

Arnold Jablon
Arnold Jablon

AJ:jaw
cc: Mr. Todd Morrill
Mr. Geoffrey Schultz

APPEAL

Petitions for Variance
NW/S W. Liberty Road, 208 Ft. E of c/l Harris Mill Road
21300 W. Liberty Road
7th Election District and 3rd Councilmanic District
Todd Morrill-Petitioner
Case Nos. 95-265-A

Petition for Variance

Description of Property

Certificate of Posting

Certificate of Publication

Entry of Appearance of People's Counsel

Zoning Plans Advisory Committee Comments

Letter to Arnold Jablon from Guy W. Ward dated October 11, 1994

Petitioner's Exhibit: 1 - Plat to Accompany Zoning Variance and Special Hearing

Deputy Zoning Commissioner's Order dated March 30, 1995 (Granted)

cc: Howard L. Alderman, Jr., Esquire, Levin & Gann, 305 W. Chesapeake Avenue, Towson, MD 21204
Mr. Todd Morrill, 1248 Lower Glenoe Road, Sparks, MD 21152
Mr. Geoffrey Schultz, McKee & Associates, Inc., 5 Shawan Road, Hunt Valley, MD 21030
People's Counsel, M.S. 2010

Request Notification: Patrick Keller, Director, Planning and Zoning
Timothy M. Kotroco, Deputy Zoning Commissioner
Arnold Jablon, Director of ZADM

7/18/95 -Notice of Assignment for hearing scheduled for Wednesday, October 25, 1995 at 10:00 a.m. sent to following:

People's Counsel for Baltimore County
Howard L. Alderman, Jr., Esquire
Mr. Todd Morrill
Mr. Geoffrey Schultz
McKee & Associates, Inc.
Pat Keller
Lawrence E. Schmidt
Timothy M. Kotroco
W. Carl Richards, Jr. /PDM
Docket Clerk /PDM
Arnold Jablon, Director /PDM

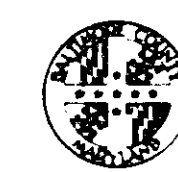
7/31/95 -Letter from Todd Morrill requesting consideration for earlier hearing date, should such become available, due to contract of sale and possible August settlement. Letter hand delivered to office; advised Mr. Morrill that the file would be noted and consideration given to his request in the event an earlier date does become available (presently scheduled for October 25, 1995).

8/15/95 -Letter to Mr. Morrill advising him that, at this time, the Board does not have an earlier date available; however, his letter will be held on file, and upon confirmation of availability of parties, an earlier date assigned, should one become available. (cc: H. Alderman and P. Zimmerman)

10/25/95 -Hearing concluded (95-263-SPH; 95-264-SPH; and 95-265-A). Memorandum due from Counsel by November 15, 1995. To be scheduled for public deliberation some time after receipt of same. (R.R.L.)

Received Memo: Alderman 11/15/95
Zimmerman 11/15/95

11/16/95 -Notice of Deliberation sent to parties; scheduled for Wednesday, December 13, 1995 at 9:00 a.m. (Copies of Memos to R.R.L.)



County Board of Appeals of Baltimore County

OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
(410) 887-3180

November 16, 1995

NOTICE OF DELIBERATION

Having concluded this case on October 25, 1995, and Memorandum of Counsel filed by November 15, 1995, the County Board of Appeals has scheduled the following date and time for deliberation in the matter of:

TODD MORRILL -PETITIONER/APPELLEE
CASES NO. 95-263-SPH; NO. 95-264-SPH;
AND NO. 95-265-A.

DATE AND TIME : Wednesday, December 13, 1995 at 9:00 a.m.

LOCATION : Room 48, Basement, Old Courthouse

cc: People's Counsel for Baltimore County
Howard L. Alderman, Jr., Esquire
Mr. Todd Morrill
Mr. Geoffrey Schultz
McKee & Associates, Inc.
Pat Keller
Lawrence E. Schmidt
Timothy M. Kotroco
W. Carl Richards, Jr. /PDM
Docket Clerk /PDM
Arnold Jablon, Director /PDM
Virginia W. Barnhart, County Attorney

Kathleen C. Bianco
Administrative Assistant

R.L.K. /copied

COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY

MINUTES OF DELIBERATION

IN THE MATTER OF: Todd Morrill - Petitioner
Case No. 95-263 SPH
Case No. 95-264 SPH
Case No. 95-265 A

DATE : December 13, 1995 at 9:00 a.m.

BOARD /PANEL : Robert O. Schuetz (ROS)
Lawrence M. Stahl (LMS)
Kristine K. Howanski (KKH)

SECRETARY : Kathleen C. Bianco
Administrative Assistant

Among those present at the deliberation were Howard L. Alderman, Jr., Esquire, on behalf of Petitioners; and Peter Max Zimmerman, People's Counsel for Baltimore County, and Carole S. Demilio, Deputy People's Counsel, Appellant.

PURPOSE --to deliberate issues and matter of petition presented to the Board; testimony and evidence taken at hearing of October 25, 1995. Written Opinion and Order to be issued by the Board.

ROS: Good morning, everyone. We are here to deliberate Case No. 95-263-SPH; Case No. 95-264-SPH; and Case No. 95-265-A, the Todd Morrill Property. The purpose of today's convening is to comply with the open meetings law as it applies to the Board of Appeals and what is going to be discussed this morning is going to be the issues considered by the members of the Board, but does not represent the official record. The official record will be the Order and Opinion that will come subsequent to this proceeding.

In chambers, we discussed that I would go first. I have to say that this is a situation that I find myself in an unusual position. Unusual in several respects. On a personal level, I generally come out here with a pretty fair direction, almost to the word, in what I want to say, when I come out here and discuss with colleagues. Generally I'm able to do that shooting from the hip. I believe that that is more in the spirit of the open deliberations. And there's going to be some of that today. But I did take a number of notes relative to this case -- leads to several questions that I hope to discuss. I believe that part of the issue is density in this particular matter. We have an undersized lot - R.C. 4; an adjoining parcel is split-zoned and the question is -- can a

Deliberation /Todd Morrill -Petitioner
Case No. 95-263-SPH; Case No. 95-264-SPH; and Case No. 95-265-A

Petitioner use Parcel A for purposes of development on adjoining lot of record to support residential use? And the issue as an accessory was the question of what constitutes accessory use and whether or not a septic reserve area can be on the adjoining property.

This will I guess give you a clue at what I'm looking at. Density has been established; following that procedure, we have no additional density as a result of that development. But converse to that is the fact of reduced density in the area. I believe that the current zoning applies in the area, and we have testimony from Mr. Schultz that development could occur as a matter of right but for lot size. We had issues of septic reserve area on existing lot; did not perk. Had to locate on adjoining property; perfectly normal sequence of events seeking use of property. However, situation where we have less than one acre; we've got a question of whether or not Section 304 applies. We had the testimony of Mr. Schultz -- on re-cross -- the lot did not exist prior to 1955, but contends that 304 applies today; here's where we get into the interesting part of the case.

Section 304.1(a) indicates that such lot shall have been duly recorded by deed or in approved subdivision prior to 1955; but we have situation here -- on its face you would say it fails. However, the lot conformed to the zoning regulations when it was created. And therefore we get to a question, which I do not believe was argued here, one that Larry Schmidt and I have battled over -- can 304 be varied under 307? What's muddled the waters frankly is the testimony of Mr. Schultz -- excellent witness -- raised number of good issues. Mr. Schultz indicated that the Petitioner -- that there is a willingness to record. Section 304.1(c) speaks to the issue of adjoining land, where the owner of the land does not own sufficient adjoining land to comply, etc. We have exactly that, but we don't necessarily have where the recording has not taken place. In absence of recording, can we assume the continued ownership of Parcel A together with subject site, or should we turn to testimony of Mr. Schultz and say recording should have occurred prior to filing? Keeping in mind, of course, that density is at the heart of the issue -- truly have not made up my mind in this matter; would like to have that question answered by my colleagues. In my view, this is one of those cases in the Board's purview that points to a hole in the wall, if you will. Petitioner has piece of property; able to develop as a matter of right; but as consequence of circumstances, may not be able to because of the ownership rights on an adjacent piece of land. That is nonsensical.

2

Deliberation /Todd Morrill -Petitioner
Case No. 95-263-SPH; Case No. 95-264-SPH; and Case No. 95-265-A

LMS: Let me just say for the record -- we are here under the open deliberations rules. I've been practicing almost 25 years, and I find it's a difficult process at best. In a case like this, it makes it even more difficult because, frankly, when it's a complicated issue, triers of fact should really be able to ask stupid questions of each other; sometimes more difficult to do than at other times. I make my usual comments that our brethren in the Circuit Court should only have to do what they have mandated we must do.

My question to you -- give me scenario on re-recording; if follow dotted line -- if they recorded and if they did and if they did not -- and define "record."

ROS: To combine lots; to re-record; per testimony of Mr. Schultz -- develop as matter of right, as minor subdivisions which might go to the DRC; I would imagine DRC would have to determine; I don't know.

LMS: That would be R.C. 4 portion.

ROS: He develops as a matter of right; wherever septic field occurs on property; regulations indicate that septic field -- reserve area -- has to be in same zone. The case probably does not even come here. I think they are asking us to make a call as to what really applies -- without having to go the route of re-recording. What happens if we grant it? We allow him to build; at this point, I'm inclined to do just that. Question -- what happens if you do this; what is disposition of adjoining property? Asking for call under special hearing. Has pretty far-reaching effect; what is effect on similar properties? In this case we have a situation where Parcel A -- lot is unusable. The real issue is what is going to happen to that property if it were used.

LMS: I have no answer either yet; thoughts occur today. What effect will this have 2 years or 6 months from now? Does it make difference? Every decision has an effect on what comes later. In the context of a special hearing -- if we determine based on these particular facts and circumstances -- that we allow or don't allow that it's really going to have as far reaching effect --

KKH: This concern is more directed to density; what is the

3

Deliberation /Todd Morrill -Petitioner
Case No. 95-263-SPH; Case No. 95-264-SPH; and Case No. 95-265-A

ramification of what we do; what is long-term implication for that?

ROS: In this particular case -- density has already been established. I believe that if we find as People's Counsel would have us do -- the converse is that we would reduce density in the area. That is not within the purview of this Board.

KKH: I'm not that concerned about any far-reaching aspects because the County Council has already said what it wants in terms of zoning. They are free to stay with that or change that. Farmers complain when change is necessary; reduces value of land. Changes can still be made, but may be a price.

LMS: I was thinking, given all different statutes and holes that may exist -- we may be taking step back from it and trying not to simplify it. Comments made in one of the briefs that everybody going through definitions of density. As we take density to mean.

RECESS FOR TELEPHONE CALL; reconvened.

LMS: I was talking about trying to step back; try to simplify issues. As we are talking about density and defining density, people per unit in some manner, shape or form is what petitioner is requesting going to change density that he already has; is it going to alter it, bring any more development than would otherwise have been applicable? If we allow this, are we increasing density simply by utilizing portion of A to provide accoutrement to what is already R.C. 4?

I'm not convinced that we are changing anything if we allow them to use, or Petitioner to use that additional property. I also ask myself the question -- in broad general terms -- is the use of A for something underground, is that a "use of some sort" that causes us a problem; does it muddy the waters, simplify waters? It seems to me that although there are laws and cases -- about bootstrapping commercial -- I understand that -- they even allow parking under some circumstances which I guess is more of a use but almost temporary use -- does not change density of either of the properties; still have commercial property, if you use residential to provide parking -- some cases say it's okay; not changing commercial density. In a way, I'm concurring if utilizing on a residential purpose

4

Deliberation /Todd Morrill -Petitioner
Case No. 95-263-SPH; Case No. 95-264-SPH; and Case No. 95-265-A

to allow permitted zoning to continue without changing zoning of Parcel A; do not believe septic and well really changes nondensity.

KKH: Are we talking about density when we use nondensity lot to service another lot? In Zoning Commissioner's Policy Manual, 1A0048, in there it does appear to construe use of lots as a non-density related activity; referring to sale, transfer of small parcels in (1) -- R.C. zoned parcels too small to meet lot size... may be permitted.

Then it gets into something Rob is talking about -- let's say we don't have legal problem with this density issue -- did that jump through the right hoops? In R.C. 2 zone, parcel could possibly be transferred; correct number of lots.

LMS: And interestingly enough, it does not increase density.

KKH: Believe that's true; appears to contemplate special hearing to assess nondensity transfers. On other hand, I have to acknowledge there could be some use of non-density land that would be so intense as to go against the objective of the regulations. Our job is not to say this use. So intense it's contrary to purpose; our job is to say -- does it change density. If not, we have no reasons to interfere with it. Back to 304 -- otherwise you are in a situation where you have someone with undersized lot bootstrapping other provisions.

ROS: I think that is consistent -- your assessment is consistent with my view of the intention of 304.1c; owner does not own sufficient land to comply with area requirements; seeking a way to obtain proper use.

LMS: Without changing density.

ROS: So ends are preserved; appropriate for that area. I think that the theory is consistently applied; what you do -- in my view -- having heard the answers to my questions -- I would say I would grant the special hearing; I would find as offered by Mr. Schultz -- that 304 applies; that a variance from 304.1 is necessary in that the letter of the law states that the lot shall have been duly recorded by deed or subdivision prior to March 1, 1955, when in fact this was created later, but was

5

Deliberation /Todd Morrill -Petitioner
Case No. 95-263-SPH; Case No. 95-264-SPH; and Case No. 95-265-A

not consequence at that time. To find contrary to County Council would be confiscatory; we would be reducing density and devaluing parcel A to zero.

KKH: I did not find the testimony of uses for Parcel A persuasive. It is practical difficulty.

LMS: Listening to him talk about various ways of doing it led me to conclusion -- what they are doing probably makes most sense. Question -- would we have no problem as for instant Parcel A which was purchased by Petitioner later on, if he did not own Parcel A, had R.C. 4 lot that did not perk -- no question that he could not develop that parcel. Assuming he did not have availability of land, could do nothing with R.C. 4. The fact that he was able to purchase land -- as long as nature does not change particularly, I don't think it changes anything. But another way, he should be harmed because the particular facts of this enabled Petitioner to buy adjacent piece of property and zoning does match. Why should he not be allowed to do it?

ROS: From what I'm hearing, am I to assume that we concur finding that we should be granting?

LMS: Yes. I'm coming around to it. No compelling reason why he should not be allowed to do it.

KKH: I'm in the same position at this point; I was troubled still by the first question, but it's clear -- testimony at least persuasive; could be done a number of different ways, but I think we are persuaded that it's not a density issue. That's not what's being indicated by doing this. I want to make sure that when we look at variances, we don't just run right over them.

KKH: We are not in a position where we have to consider a variance.

ROS: I actually believe they meet 304.1.

LMS: Meets setback requirements.

ROS: Different variance; question of whether you can vary 304.1.

6

Deliberation /Todd Morrill -Petitioner
Case No. 95-263-SPH; Case No. 95-264-SPH; and Case No. 95-265-A

think I sat on a case -- granted variance from 304, but that's not before us this morning. I would say that I believe it meets 304 because of the history of the property.

Closing statement by ROS: I think we are in agreement. You should look for opinion and order. Any petition should be taken from the date of that Order and not necessarily from today's date. Thank you very kindly.

Respectfully submitted,

Kathleen C. Bianco
Administrative Assistant

BALTIMORE COUNTY, MARYLAND
INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon, Director DATE: September 27, 1996
Permits & Development Management

FROM: Charlotte E. Radcliffe
County Board of Appeals

SUBJECT: Closed Files: Case Nos.
95-263-SPH, 95-264-SPH and 95-265-A
TODD MORRILL - PETITIONER
7th E, 3rd C

As no further appeals have been taken regarding the subject case, we are hereby closing the files and returning same to you herewith.

Attachment (Case File No. 95-263-SPH, 95-264-SPH and 95-265-A)

FRANCIS J. VELEZ, M.D., FACS

9515 HARBOR ROAD
BALTIMORE, MD 21234
665-0044

2 COLGATE DRIVE, STE. 101
FOREST HILL, MD 21030
(301) 410-1100

October 20, 1996

County Board of Appeals
Baltimore County
Old Court House Room 49
TOWSON, MD 21204

RE: Todd Morrill 95-263, 95-265, 95-265

Dear Board of Appeals,

It has come to my attention that Mr. Morrill intends to build yet another house above West Liberty and Harris Mill Road. It is my understanding that he intends to purchase an additional small lot, which is non-density, to further enhance his profits by being able to sell yet another home in this rural community. This immediate lot not only encompasses a very old grave yard, but is closely located to Deer Creek, a pristine, fresh water run-off in Northern Baltimore County.

Not only has this area been developed to its maximum, but the Morrills have recently won permits to develop farm land, only one mile north, on Harris Mill Road.

I am sorry that I could not attend the hearing in person, but previous obligations have prohibited me doing so. If given the opportunity, I would be more than happy to testify in person. I purchased my Harris Mill farm five years ago with the intention of preserving its original nature. Since that time, extensive developments have threatened the very essence of this community.

Sincerely,

Francis J. Velez, M.D., FACS
FJV/mp

THE VALLEYS
PLANNING COUNCIL, INC.

212 Washington Avenue
P.O. Box 5402
Towson, Maryland 21285-5402
410-337-6877
410-296-5409 (FAX)

October 20, 1995

Mr. Robert O. Schuetz
County Board of Appeals
Old Court House, Room 49
Towson, MD 21204

Re: Todd Morrill Lot (21300 West Liberty
Road -- 95-263 SPH, 95-264-SPH, 95-265A)

Dear Mr. Schuetz:

This case involves the placement of a septic field for a lot at 21300 West Liberty Road on an adjoining "non-density" parcel. The Valleys Planning Council opposes this use strongly.

21300 West Liberty Road is a legal lot of record. Nonetheless, it is, in fact, unable to support a dwelling, since no area has been found for a septic field on it. As it stands, it represents no more than open space. [This is confirmed, I believe, by the low purchase price: only \$3000, according to the Land Records].

The contiguous "non-density" parcel was so designated as a condition for approval of an adjacent subdivision. Such a parcel, which, by County ruling, cannot support any density, should not be used to make this lot buildable. Use of the parcel in this way amounts to using a non-density parcel to create density.

Mr. Kotroco has pointed out that the "openness" of the non-density parcel will be retained. But the immediately adjoining parcel at 21300 West Liberty will now be built on, though it would have remained open otherwise. Thus the "openness" of the neighborhood will, in fact, decrease.

I am personally aware of many undersized, substandard lots in agricultural and reservoir protection areas which may become developable if this interpretation of "non-density" is allowed. These will create areas of development at an intensity much greater than that allowed by the present Resource Conservation zoning. Certainly, this result

Page 2

would be incompatible with the intent of the legislation creating the R.C. 2 and R.C. 4 zones, which refers repeatedly to the "preservation" of natural and agricultural resources by discouraging "unsuitable types or levels of development".

Sincerely,

John Bernstein
John Bernstein
Executive Director

cc: Hon. T. Bryan McIntire
Peter Max Zimmermann, Esq.

7/31/95
Hannette Bly
Towson

Ms. Kathleen Weidenhammer
County Board of Appeals

Dear Ms. Weidenhammer:

If it all possible,
I would like to move my hearing (95-263-SPH,
95-264-SPH & 95-265-V) to an earlier date.

I have a contract of sale for the property
which is supposed to settle in August.

Thank you for your consideration of my
request. Any earlier date would be appreciated.

Sincerely,
Hannette Bly

SSW 01 PM '95

